EXCERPTS FROM WELFARE AND INSTITUTIONS CODE

[DIVISION 2. CHILDREN]

[PART 1. DELINQUENTS AND WARD OF THE JUVENILE COURT]

[CHAPTER 2. JUVENILE COURT LAW]

[ARTICLE 1. General Provisions]

208. (a) Except as provided in Section 208.1, when any person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit that person to come or remain in contact with those adults.

(b) No person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under Section 290 of the Penal Code and who has been committed to any state hospital or other state facility pursuant to Section 1026 or 1370 of the Penal Code.

(c) As used in this section, "contact" does not include participation in supervised group therapy or other supervised treatment activities, participation in work furlough programs, or participation in hospital recreational activities which are directly supervised by employees of the hospital, so long as living arrangements are strictly segregated and all precautions are taken to prevent unauthorized associations.

(d) This section shall remain in effect only until January 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1998, deletes or extends that date.

(Amended by Stats. 1994, 1st Ex. Sess., Ch. 23, Sec. 1. Effective November 30, 1994. Repealed as of January 1, 1998, by its own provisions. See later operative version added by Sec. 2 of Ch. 23.)

208. (a) When any person under 18 years of age is detained in or sentenced to any institution in which adults are confined, it shall be unlawful to permit such person to come or remain in contact with such adults.

(b) No person who is a ward or dependent child of the juvenile court who is detained in or committed to any state hospital or other state facility shall be permitted to come or remain in contact with any adult person who has been committed to any state hospital or other state facility as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6, or with any adult person who has been charged in an accusatory pleading with the commission of any sex offense for which registration of the convicted offender is required under Section 290 of the Penal Code and who has been committed to any state hospital or other state facility pursuant to Section 1026 or 1370 of the Penal Code.

(c) As used in this section, "contact" does not include participation in supervised group therapy or other supervised treatment activities, participation in work furlough programs, or participation in hospital recreational activities which are directly supervised by employees of the hospital, so long as living arrangements are strictly segregated and all precautions are taken to prevent unauthorized associations.

(d) This section shall be operative January 1, 1998.

(Repealed (by Sec. 1) and added by Stats. 1994, 1st Ex. Sess., Ch. 23, Sec. 2. Effective November 30, 1994. Section operative January 1, 1998, by its own provisions.)

357. Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally ill or if the court is in doubt concerning the mental health of any such person, the court may order that such person be held temporarily in the psychopathic ward of the county hospital or hospital whose services have been approved and/or contracted for by the department of health of the county, for observation and recommendation concerning the future care, supervision, and treatment of such person.

(Added by Stats. 1976, Ch. 1068.)

602. Any person who is under the age of 18 years when he violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

(Amended by Stats. 1976, Ch. 1071.)

702.3. Notwithstanding any other provision of law:

(a) When a minor denies, by a plea of not guilty by reason of insanity, the allegations of a petition filed pursuant to Section 602 of the Welfare and Institutions Code, and also joins with that denial a general denial of the conduct alleged in the petition, he or she shall first be subject to a hearing as if he or she had made no

allegation of insanity. If the petition is sustained or if the minor denies the allegations only by reason of insanity, then a hearing shall be held on the question of whether the minor was insane at the time the offense was committed.

(b) If the court finds that the minor was insane at the time the offense was committed, the court, unless it appears to the court that the minor has fully recovered his or her sanity, shall direct that the minor be confined in a state hospital for the care and treatment of the mentally disordered or any other appropriate public or private mental health facility approved by the community program director, or the court may order the minor to undergo outpatient treatment as specified in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code. The court shall transmit a copy of its order to the community program director or his or her designee. If the allegations of the petition specifying any felony are found to be true, the court shall direct that the minor be confined in a state hospital or other public or private mental health facility approved by the community program director for a minimum of 180 days, before the minor may be released on outpatient treatment. Prior to making the order directing that the minor be confined in a state hospital or other facility or ordered to undergo outpatient treatment, the court shall order the community program director or his or her designee to evaluate the minor and to submit to the court within 15 judicial days of the order his or her written recommendation as to whether the minor should be required to undergo outpatient treatment or committed to a state hospital or another mental health facility. If, however, it shall appear to the court that the minor has fully recovered his or her sanity the minor shall be remanded to the custody of the probation department until his or her sanity shall have been finally determined in the manner prescribed by law. A minor committed to a state hospital or other facility or ordered to undergo outpatient treatment shall not be released from confinement or the required outpatient treatment unless and until the court which committed him or her shall, after notice and hearing, in the manner provided in Section 1026.2 of the Penal Code, find and determine that his or her sanity has been restored.

(c) When the court, after considering the placement recommendation for the community program director required in subdivision (b), orders that the minor be confined in a state hospital or other public or private mental health facility, the court shall provide copies of the following documents which shall be taken with the minor to the state hospital or other treatment facility where the minor is to be confined:

(1) The commitment order, including a specification of the charges.

(2) The computation or statement setting forth the maximum time of commitment in accordance with Section 1026.5 and subdivision (e).

(3) A computation or statement setting forth the amount of credit, if any, to be deducted from the maximum term of commitment.

(4) State Summary Criminal History information.

(5) Any arrest or detention reports prepared by the police department or other law enforcement agency.

(6) Any court-ordered psychiatric examination or evaluation reports.

(7) The community program director's placement recommendation report.

(d) The procedures set forth in Sections 1026, 1026.1, 1026.2, 1026.3, 1026.4, 1026.5, and 1027 of the Penal Code, and in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code, shall be applicable to minors pursuant to this section, except that, in cases involving minors, the probation department rather than the sheriff, shall have jurisdiction over the minor.

(e) No minor may be committed pursuant to this section for a period longer than the jurisdictional limits of the juvenile court, pursuant to Section 607, unless, at the conclusion of the commitment, by reason of a mental disease, defect, or disorder, he or she represents a substantial danger of physical harm to others, in which case the commitment for care and treatment beyond the jurisdictional age may be extended by proceedings in superior court in accordance with and under the circumstances specified in subdivision (b) of Section 1026.5 of the Penal Code.

(f) The provision of a jury trial in superior court on the issue of extension of commitment shall not be construed to authorize the determination of any issue in juvenile court proceedings to be made by a jury.

(Amended by Stats. 1989, Ch. 625, Sec. 3.)

705. Whenever the court, before or during the hearing on the petition, is of the opinion that the minor is mentally disordered or if the court is in doubt concerning the mental health of any such person, the court may proceed as provided in Section 6550 of this code or Section 4011.6 of the Penal Code.

(Amended by Stats. 1976, Ch. 445.)

DIVISION 4. MENTAL HEALTH

(Heading of Division 4 amended by Stats. 1977, ch. 1252)

PART 1. GENERAL ADMINISTRATION, POWERS AND DUTIES OF THE DEPARTMENT

(Heading of Part 1 amended by Stats. 1977, ch. 1252)

CHAPTER 1 GENERAL

(Heading of Chapter 1 added by Stats. 1978, ch. 1393)

4000. There is in the Health and Welfare Agency a State Department of Mental Health.

(Added by Stats. 1977, Ch. 1252.)

4001. As used in this division:

(a) "Department" means the State Department of Mental Health.

(b) "Director" means the Director of Mental Health.

(c) "State hospital" means any hospital specified in Section 4100.

(Amended by Stats. 1977, Ch. 1252.)

4004. The department is under the control of an executive officer known as the Director of Mental Health.

(Amended by Stats. 1977, Ch. 1252.)

4005. With the consent of the Senate, the Governor shall appoint, to serve at his pleasure, the Director of Mental Health. He shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government Code, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government Code.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

(Amended by Stats. 1978, Ch. 432.)

4005.1. The department may adopt and enforce rules and regulations necessary to carry out its duties under this division.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 4. Effective June 30, 1991.)

4005.4. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Mental Health by Section 4005.1 and in effect

immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Mental Health.

(Amended by Stats. 1978, Ch. 429.)

4006. With the approval of the Department of Finance and for use in the furtherance of the work of the State Department of Mental Health, the director may accept any or all of the following:

(a) Grants of interest in real property.

(b) Grants of money received by this state from the United States, the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in the scientific, educational, charitable, or mental health fields.

(Amended by Stats. 1991, Ch. 89, Sec. 7. Effective June 30, 1991.)

4007. The department may expend in accordance with law all money now or hereafter made available for its use, or for the administration of any statute administered by the department.

(Repealed and added by Stats. 1967, Ch. 1667.)

4008. (a) The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

(b) For the purposes of this section and of Sections 11030 and 11032 of the Government Code, the following constitutes, among other purposes, official business for officers and employees of the department for which these officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

(1) Attending meetings of any national or regional association or organization having as its principal purpose the study of matters relating to the care and treatment of mentally ill persons.

(2) Conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management.

(3) Obtaining information from organizations, associations, or persons described in paragraphs (1) and (2) which would be useful in the conduct of the activities of the State Department of Mental Health.

(Amended by Stats. 1991, Ch. 89, Sec. 8. Effective June 30, 1991.)

4009. The department may appoint and fix the compensation of such employees as it deems necessary, subject to the laws governing

civil service.

(Repealed and added by Stats. 1967, Ch. 1667.)

4010. Except as in this chapter otherwise prescribed, the provisions of the Government Code relating to state officers and departments shall apply to the State Department of Mental Health.

(Amended by Stats. 1977, Ch. 1252.)

4011. Unless otherwise indicated in this code, the State Department of Mental Health has jurisdiction over the execution of the laws relating to the care, custody, and treatment of mentally disordered persons, as provided in this code.

As used in this division, "establishment" and "institution" include every hospital, sanitarium, boarding home, or other place receiving or caring for mentally disordered persons.

(Amended by Stats. 1977, Ch. 1252.)

4011.5. In counties where State Department of Mental Health hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

(Amended by Stats. 1981, Ch. 1044, Sec. 38.)

4012. The State Department of Mental Health may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental disorder.

(b) Upon request, advise all public officers, organizations and agencies interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental health facilities throughout the state.

(d) Coordinate state activities involving other departments whose actions affect mentally ill persons.

(e) Coordinate with, and provide information to, other states and national organizations, on issues involving mental health.

(f) Disseminate information and federal and private foundation funding opportunities to counties and cities that administer mental health programs.

(Amended by Stats. 1991, Ch. 611, Sec. 15. Effective October 7, 1991.)

4012.5. The State Department of Mental Health may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other

public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

(Amended by Stats. 1977, Ch. 1252.)

4016. In every place in which a mentally disordered person may be involuntarily held, the persons confined therein shall be permitted access to and examination or inspection of copies of this code.

(Repealed and added by Stats. 1967, Ch. 1667.)

4017. (a) The department may provide information to the Controller to guide distribution of resources dedicated for mental health services under Chapter 6 (commencing with Section 17600) of Part 5 of Division 9, and may distribute to a county or combination of counties acting jointly resources described in Part 2 (commencing with Section 5600) of Division 5, pursuant to Section 5701.

(b) The department may contract with a county or combination of counties for services described in this division and Division 5 (commencing with Section 5000), to the extent that those services are funded directly by the department.

(Amended by Stats. 1991, Ch. 611, Sec. 16. Effective October 7, 1991.)

4021. When the department has reason to believe that any person held in custody as mentally disordered is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the mentally disordered, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this code.

(Amended by Stats. 1978, Ch. 429.)

4022. When complaint is made to the department regarding the officers or management of any hospital or institution for the mentally disordered, or regarding the management of any person detained therein or regarding any person held in custody as mentally disordered, the department may, before making an examination regarding

such complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall direct that a copy of the complaint be served on the authorities of the hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

(Amended by Stats. 1977, Ch. 1252.)

4024. The State Department of Mental Health proposed allocations for level-of-care staffing in state hospitals that serve persons with mental disabilities shall be submitted to the Department of Finance for review and approval in July and again on a quarterly basis. Each quarterly report shall include an analysis of client characteristics of admissions and discharges in addition to information on any changes in characteristics of current residents.

The State Department of Mental Health shall submit by January 1 and May 1 to the Department of Finance for its approval: (a) all assumptions underlying estimates of state hospital mentally disabled population; and (b) a comparison of the actual and estimated population levels for the year to date. If the actual population differs from the estimated population by 50 or more, the department shall include in its reports an analysis of the causes of the change and the fiscal impact. The Department of Finance shall approve or modify the assumptions underlying all population estimates within 15 working days of their submission. If the Department of Finance does not approve or modify the assumptions by such date, the assumptions, as presented by the submitting department, shall be deemed to be accepted by the Department of Finance as of that date. The estimates of populations and the comparison of actual versus estimated population levels shall be made available to the Joint Legislative Budget Committee immediately following approval by the Department of Finance.

The Department of Finance shall also make available to the Joint Legislative Budget Committee a listing of all of the approved assumptions and the impact of each assumption, as well as all supporting data provided by the State Department of Mental Health or developed independently by the Department of Finance. However, such departmental estimates, assumptions, and other supporting data as have been prepared shall be forwarded to the Joint Legislative Budget Committee not later than January 15 or May 15 by the State Department of Mental Health in the event this information has not been released earlier.

(Added by Stats. 1984, Ch. 268, Sec. 33. Effective June 30, 1984.)

4024.5. (a) The State Department of Mental Health and the State Department of Alcohol and Drug Programs, jointly, shall develop

a plan, by July 1, 1994, to appropriately combine funding from both departments for the treatment of persons with multiple diagnoses.

(b) For purposes of this section, "multiple diagnoses" means diagnoses of chronic mental illness together with substance abuse of either illegal or legal drugs, including alcohol, or both.

(Added by Stats. 1990, Ch. 845, Sec. 1.)

4025. Charges made by the department for the care and treatment of each patient in a facility maintained by the department shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The director is not prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his determination of actual cost.

As used in this section, the terms "care" and "care and treatment" include care, treatment, support, maintenance, and other services rendered by the department to a patient in the state hospital or other facility maintained by or under the jurisdiction of the department.

(Added by Stats. 1968, Ch. 1374.)

4026. (a) The Legislature finds and declares all of the following:

(1) That there is a severe shortage of adequate facilities for mentally disordered patients of all ages since the closing of the 48 out of 94 facilities in the mental illness program in 1968.

(2) That most of these mentally disordered people, who do not have families and money, are turned away from any treatment or therapy from the state and are forced to be sent out on the street.

(3) That these mentally disordered patients are not receiving the care that they are entitled to.

(4) That this shortage is demonstrated by the current practice of placing mentally disordered patients in jails and in transferring them from county to county.

(5) That mentally disordered patients are currently displacing potential residents over the age of 55 at our existing long-term health care facilities.

(6) That since the closing of these mental health facilities, the counties have been instructed by the State Department of Mental Health to commit the mentally disordered to skilled and long-term care nursing facilities.

(7) That when long-term care facilities house both mentally disordered patients and seniors, severe disruption and stress results, particularly in the nonmentally disordered senior population.

(8) That in order to meet the needs of seniors residing in long-term health care facilities, as well as mentally disordered patients, it would be of immense value to preclude mentally disordered persons from residing in long-term health care facilities, while, at

the same time, ensuring that adequate facilities exist for the housing of mentally disordered patients.

(b) The State Department of Mental Health shall determine the extent of the problem, and identify the number of mentally disordered patients who are in need of long-term health care.

The department also shall determine how many people, whose primary illness is a mental disorder, are residing in long-term health care facilities, as defined in Section 1418 of the Health and Safety Code. If deemed appropriate, the department shall ask that any person whose primary illness is a mental disorder be precluded from residing in long-term health care facilities, if the residence is not in accordance with the then current licensing requirements.

The department also shall identify the extent of the shortage of long-term health care services and programs and make a preliminary estimate of costs of providing long-term health care services and programs for those patients. Those services and programs shall be ready to serve mentally disordered persons prior to any mentally disordered patient being denied admission to, or discharged from, the health care facility, when the denial or discharge has been made to comply with the then current licensing requirements.

The department shall report the results of its investigation to the Governor and the Legislature by January 1, 1990, with recommendations on the desired course of action to alleviate any problems identified resulting from inappropriate placement of mentally disordered persons in these facilities.

(Added by Stats. 1988, Ch. 1494, Sec. 1.)

4027. The State Department of Mental Health may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal Code, Section 1756 of the Welfare and Institutions Code, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.

(Added by Stats. 1986, Ch. 933, Sec. 1.)

CHAPTER 2. PLANNING, RESEARCH, EVALUATION AND QUALITY ASSURANCE

(Chapter 2 added by Stats. 1978, Ch. 1393.)

Article 1. Planning, Research, Evaluation, and Quality Assurance

(Article 1 added by Stats. 1978, Ch. 1393.)

4030. The Director of Mental Health shall organize

appropriate staff of the department to ensure implementation of the planning, research, evaluation, technical assistance, and quality assurance responsibilities set forth in this chapter.

(Amended by Stats. 1991, Ch. 89, Sec. 19. Effective June 30, 1991.)

4031. The State Department of Mental Health shall, to the extent resources are available, do all of the following:

(a) Conduct, sponsor, coordinate, and disseminate results of research and evaluation directed to the public policy issues entailed in the selection of resource utilization and service delivery in the state.

(b) Make available technical assistance to local mental health programs incorporating the results of research, evaluation, and quality assurance to local mental health programs.

(c) Implement a system of required performance reporting by local mental health programs.

(d) Perform any other activities useful to improving and maintaining the quality of state mental hospital and community mental health programs.

(Amended by Stats. 1991, Ch. 89, Sec. 20. Effective June 30, 1991.)

4032. The department shall, when appropriate, give and receive grants and contracts for research, evaluation, and quality assurance efforts.

(Added by Stats. 1978, Ch. 1393.)

4033. (a) The State Department of Mental Health shall, to the extent resources are available, comply with federal planning requirements. The department shall update and issue a state plan, which may also be any federally required state service plan, so that citizens may be informed regarding the implementation of, and long-range goals for, programs to serve mentally ill persons in the state. The department shall gather information from counties necessary to comply with this section.

(b) (1) If the State Department of Mental Health makes a decision not to comply with any federal planning requirement to which this section applies, the State Department of Mental Health shall submit the decision, for consultation, to the California Conference of Local Mental Health Directors, the California Council on Mental Health, and affected mental health entities.

(2) The State Department of Mental Health shall not implement any decision not to comply with federal planning requirements sooner than 30 days after notification of that decision, in writing, by the Department of Finance, to the chairperson of the committee in each house of the Legislature which considers

appropriations, and the Chairperson of the Joint Legislative Budget Committee.

(Amended by Stats. 1991, Ch. 611, Sec. 17. Effective October 7, 1991.)

Article 2. Research and Evaluation

(Article 2 added by Stats. 1978, Ch. 1393.)

4040. The State Department of Mental Health may conduct, or contract for, research or evaluation studies which have application to policy and management issues. In selecting areas for study the department shall be guided by the information needs of state and local policymakers and managers, and suggestions from the California Conference of Local Mental Health Directors.

(Amended by Stats. 1991, Ch. 89, Sec. 22. Effective June 30, 1991.)

4041. The department shall serve as a clearinghouse for information on research and evaluation studies relevant to mental health. The department shall review and disseminate the results of local, state, and national research and evaluation studies that have important implications for mental health policy or management.

(Added by Stats. 1978, Ch. 1393.)

4042. The department shall cooperate and coordinate with other state and local agencies engaged in research and evaluation studies. Effort shall be made to coordinate with research, evaluation, and demonstration efforts of local mental health programs, state hospitals serving the mentally disordered, the Department of Rehabilitation, the State Department of Alcohol and Drug Programs, the State Department of Developmental Services, the State Department of Health Services, universities, and other special projects conducted or contracted for by the State Department of Mental Health.

(Amended by Stats. 1991, Ch. 89, Sec. 23. Effective June 30, 1991.)

4043. (a) It is the intent of the Legislature that the department provide leadership in the establishment and funding of mental health research projects. The projects shall lead to better understanding of the etiology of serious mental illness and the development of treatment alternatives necessary to meet the needs of the citizens of this state.

(b) The director shall appoint a Mental Health Research Advisory Committee. The committee shall consult with program administrators, providers, consumers, families, and research scientists. The committee shall advise and assist the director in

establishing research priorities and in other research related activities as appropriate.

(Added by Stats. 1991, Ch. 89, Sec. 24. Effective June 30, 1991.)

4044. Research performed pursuant to this chapter shall have as a priority serious mental disorders. Research shall be conducted in, or in collaboration with, state or local mental health program facilities that serve public needs. In order to preserve continuity, research programs may be funded for up to five years depending upon the nature of the project and availability of funds.

(Added by Stats. 1991, Ch. 89, Sec. 25. Effective June 30, 1991.)

4045. In order to improve the quality of mental health care in this state, a portion of the funding for research pursuant to this chapter shall be used to provide technical advice, consultation, and education on diagnosis and treatment within the public mental health system upon request of a county.

(Added by Stats. 1991, Ch. 89, Sec. 26. Effective June 30, 1991.)

Article 3. Technical Assistance

(Article 3 added by Stats. 1978, Ch. 1393.)

4050. The State Department of Mental Health shall provide, to the extent resources are available, technical assistance, through its own staff, or by contract, to county mental health programs and other local mental health agencies in the areas of program operations, research, evaluation, demonstration, or quality assurance projects.

(Amended by Stats. 1991, Ch. 611, Sec. 18. Effective October 7, 1991.)

4051. The State Department of Mental Health shall, to the extent resources are available, provide program development guidelines, evaluation models, and operational assistance on all aspects of services to mentally ill persons of all ages. These services include, but are not limited to, the following:

(a) Self-help programs.

(b) Housing development.

(c) Disaster preparation.

(d) Vocational services.

(e) Regional programs.

(f) Multiple diagnosis programs.

(Added by Stats. 1991, Ch. 89, Sec. 28. Effective June 30, 1991.)

4052. The State Department of Mental Health shall, to the extent resources are available, provide training in performance standards, model programs, cultural competency, and program development.

(Added by Stats. 1991, Ch. 89, Sec. 29. Effective June 30, 1991.)

4060. The department shall, in order to implement Section 4050, utilize a joint state-county decisionmaking process that shall include local mental health directors and representatives of local mental health boards. The purpose of this collaboration shall be to promote effective and efficient quality mental health services to the residents of the state under the realigned mental health system.

(Amended by Stats. 1993, Ch. 564, Sec. 1. Effective January 1, 1994.)

4061. (a) The department shall utilize a joint state-county decisionmaking process to determine the appropriate use of state and local training, technical assistance, and regulatory resources to meet the mission and goals of the state's mental health system. The department shall use the decisionmaking collaborative process required by this section in all of the following areas:

(1) Provide technical assistance to the State Department of Mental Health and local mental health departments through direction of existing state and local mental health staff and other resources.

(2) Analyze mental health programs, policies, and procedures.

(3) Provide forums on specific topics as they relate to the following:

(A) Identifying current level of services.

(B) Evaluating existing needs and gaps in current services.

(C) Developing strategies for achieving statewide goals and objectives in the provision of services for the specific area.

(D) Developing plans to accomplish the identified goals and objectives.

(4) Providing forums on policy development and direction with respect to mental health program operations and clinical issues.

(b) Local mental health board members shall be included in discussions pursuant to Section 4060 when the following areas are discussed:

(1) Training and education program recommendations.

(2) Establishment of statewide forums for all organizations and individuals involved in mental health matters to meet and discuss program and policy issues.

(3) Distribution of information between the state, local programs, local mental health boards, and other organizations as appropriate.

(c) The State Department of Mental Health and local mental health departments may provide staff or other resources, including travel reimbursement, for consultant and advisory services; for the training of personnel, board members, or consumers and families in state and local programs and in educational institutions and field training centers approved by the department; and for the establishment and maintenance of field training centers.

(Added by Stats. 1992, Ch. 1374, Sec. 3. Effective October 28, 1992.)

Article 4. Medi-Cal Quality Assurance

(Heading of Article 4 renumbered from Article 5 by Stats. 1991, Ch. 89, Sec. 31. Effective June 30, 1991.)

4070. (a) The State Department of Mental Health shall develop a quality assurance program to govern the delivery of Short-Doyle Medi-Cal services, in order to assure quality patient care based on community standards of practice.

(b) The department shall issue standards and guidelines for local quality assurance activities. These standards and guidelines shall be reviewed and revised in consultation with the Conference of Local Mental Health Directors. The standards and guidelines shall be based on federal medicaid requirements.

(c) The standards and guidelines developed by the department shall reflect the special problems that small rural counties have in undertaking comprehensive quality assurance systems.

(Amended by Stats. 1991, Ch. 89, Sec. 32. Effective June 30, 1991.)

4071. The department shall approve each local program's initial quality assurance plan, and shall thereafter review and approve each program's Short-Doyle Medi-Cal quality assurance plan whenever the plan is amended or changed.

(Amended by Stats. 1991, Ch. 611, Sec. 19. Effective October 7, 1991.)

CHAPTER 3. FACILITY LICENSING, PROGRAM CERTIFICATION, AND RATESETTING

(Heading of Chapter 3 amended by Stats. 1991, Ch. 89, Sec. 36. Effective June 30, 1991.)

Article 1. Licensing and Ratesetting Assessment
(Article 1 added by Stats. 1991, Ch. 89, Sec. 37. Effective June 30, 1991.)

4074. To the extent resources are available, the department shall utilize state and federal laws, research findings, and information collected for county programs to assess the need for licensing and ratesetting activities statewide. County competition, including practices which supplement rates to ensure access, are an indicator of the need for revised ratesetting activities.

(Added by Stats. 1991, Ch. 89, Sec. 37. Effective June 30, 1991.)

Article 2. Private Residential Care Facilities
(Heading of Article 2 added by Stats. 1991, Ch. 89, Sec. 38. Effective June 30, 1991.)

4075. The department shall establish and maintain an equitable system of payment for the special needs of mentally disordered persons in private residential care facilities for the mentally disabled as follows:

(a) The department shall establish the rates of payment which shall be based on the functional ability and programmatic needs of clients. The department shall establish a standardized assessment tool and client monitoring system for counties to use in determining the functional ability and programmatic needs of mentally disordered clients pursuant to this chapter.

(b) The department shall adopt regulations necessary to establish eligibility criteria for private residential care facilities, including, but not limited to, training and educational requirements for facility operators and staff and ability to meet specified special needs of clients.

(c) The department shall establish rates annually in consultation with the California Conference of Local Mental Health Directors and provider groups. These rates shall include, but not be limited to, each of the cost elements in this section as follows:

(1) Rates established for all facilities shall include an adequate amount to care for basic living needs of a mentally disordered person. "Basic living needs" are defined to include housing, including shelter, utilities, and furnishings; food; and personal care. These amounts may be adjusted annually to reflect cost-of-living changes. A redetermination of basic living costs shall be undertaken every three years by the department using the best available estimating methods.

(2) To the extent applicable, rates established for facilities shall include a reasonable amount for unallocated services. These costs shall be determined using generally accepted accounting

principles. "Unallocated services," for the purposes of this section, means the indirect costs of managing a facility and includes costs of managerial personnel, facility operation, maintenance and repair, employee benefits, taxes, interest, insurance, depreciation, and general and administrative support. If a facility serves other persons in addition to mentally disordered persons, unallocated services expenses shall be reimbursed under this section, only for the proportion of the costs associated with the care of mentally disordered persons.

(3) Rates established for facilities shall include an amount to reimburse facilities for the depreciation of mandated capital improvements and equipment as established in the state's uniform accounting manual. For purposes of this section, "mandated capital improvements and equipment" are only those remodeling and equipment costs incurred by a facility because an agency of government has required the remodeling or equipment as a condition for the use of the facility as a provider of care to mentally disordered persons.

(4) To the extent applicable, rates established for all facilities shall include as a factor an amount to reflect differences in the cost of living for different geographic areas in the state.

(5) Rates established for facilities shall include an amount for supervision where the functional ability or programmatic needs of residents require augmented supervisory staff.

(6) Rates of payment for private residential care facilities shall be established in such ways as to ensure the maximum utilization of all federal and other sources of funding, to which mentally disordered persons are legally entitled, prior to the commitment of state funds for those purposes.

(d) In no case shall the rates established under this section be less than the rates paid for equivalent categories of regional center clients which were in effect on July 1, 1985.

(Amended by Stats. 1991, Ch. 611, Sec. 20. Effective October 7, 1991.)

4076. Counties which contract with private residential care facilities for additional services for mentally disabled persons involving payment of supplemental rates shall utilize the payment rate system and facility guidelines for residential care facilities established pursuant to this chapter.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 41. Effective June 30, 1991.)

4078. Facilities funded by contract for supplemental rates in accordance with this chapter shall be licensed under existing licensing categories, including provisional licenses.

(Amended by Stats. 1991, Ch. 89, Sec. 43. Effective June 30, 1991.)

Article 3. Psychiatric Health Facilities
(Article 3 added by Stats. 1991, Ch. 89, Sec. 44.
Effective June 30, 1991.)

4080. (a) Psychiatric health facilities, as defined in Section 1250.2 of the Health and Safety Code, shall only be licensed by the State Department of Mental Health subsequent to application by counties, county contract providers, or other organizations pursuant to this part.

(b) (1) For counties or county contract providers that choose to apply, the local mental health director shall first present to the local mental health advisory board for its review an explanation of the need for the facility and a description of the services to be provided. The local mental health director shall then submit to the governing body the explanation and description. The governing body, upon its approval, may submit the application to the State Department of Mental Health.

(2) Other organizations that will be applying for licensure and do not intend to use any Bronzan-McCorquodale funds pursuant to Section 5707 shall submit to the local mental health director and the governing body in the county in which the facility is to be located a written and dated proposal of the services to be provided. The local mental health director and governing body shall have 30 days during which to provide any advice and recommendations regarding licensure, as they deem appropriate. At any time after the 30-day period, the organizations may then submit their applications, along with the mental health director's and governing body's advice and recommendations, if any, to the State Department of Mental Health.

(c) The State Fire Marshal and other appropriate state agencies, to the extent required by law, shall cooperate fully with the State Department of Mental Health to ensure that the State Department of Mental Health approves or disapproves the licensure applications not later than 90 days after the application submission by a county, county contract provider, or other organization.

(d) Every psychiatric health facility and program for which a license has been issued shall be periodically inspected by a multidisciplinary team appointed or designated by the State Department of Mental Health. The inspection shall be conducted no less than once every two years and as often as necessary to ensure the quality of care provided. During the inspections the review team shall offer such advice and assistance to the psychiatric health facility as it deems appropriate.

(e) (1) The program aspects of a psychiatric health facility that shall be reviewed and may be approved by the State Department of Mental Health shall include, but not be limited to:

(A) Activities programs.

(B) Administrative policies and procedures.

(C) Admissions, including provisions for a mental evaluation.

(D) Discharge planning.

(E) Health records content.

(F) Health records services.

(G) Interdisciplinary treatment teams.

(H) Nursing services.

(I) Patient rights.

(J) Pharmaceutical services.

(K) Program space requirements.

(L) Psychiatrist and clinical psychological services.

(M) Rehabilitation services.

(N) Restraint and seclusion.

(O) Social work services.

(P) Space, supplies, and equipment.

(Q) Staffing standards.

(R) Unusual occurrences.

(S) Use of outside resources, including agreements with general acute care hospitals.

(T) Linguistic access and cultural competence.

(U) Structured outpatient services to be provided under special permit.

(2) The State Department of Mental Health has the sole authority to grant program flexibility.

(f) The State Department of Mental Health shall adopt regulations that shall include, but not be limited to, all of the following:

(1) Procedures by which the State Department of Mental Health shall review and may approve the program and facility requesting licensure as a psychiatric health facility as being in compliance with program standards established by the department.

(2) Procedures by which the Director of Mental Health shall approve, or deny approval of, the program and facility licensed as a psychiatric health facility pursuant to this section.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program and facility standards.

(4) Provisions for the State Department of Mental Health for any administrative proceeding regarding denial, suspension, or revocation of a psychiatric health facility license.

(g) Regulations shall be adopted by the State Department of Mental Health, which shall establish standards for pharmaceutical services in psychiatric health facilities. Licensed psychiatric health facilities shall be exempt from requirements to obtain a separate pharmacy license or permit.

(h) (1) It is the intent of the Legislature that the State Department of Mental Health shall license the facility in order to

establish innovative and more competitive acute care services as alternatives to hospital care.

(2) The State Department of Mental Health shall review and may approve the program aspects of public or private facilities, with the exception of those facilities that are federally certified or accredited by a nationally recognized commission that accredits health care facilities, only if the average per diem charges or costs of service provided in the facility is approximately 60 percent of the average per diem charges or costs of similar psychiatric services provided in a general hospital.

(3) (A) When a private facility is accredited by a nationally recognized commission that accredits health care facilities, the department shall review and may approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(B) When a private facility serves county patients, the department shall review and may approve the program aspects only if the facility is federally certified by the Health Care Financing Administration and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall cost savings to the county, and the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(4) When a public facility is federally certified by the Health Care Financing Administration and serves a population mix that includes a proportion of Medi-Cal patients sufficient to project an overall program cost savings with certification, the department shall approve the program aspects only if the average per diem charges or costs of service provided in the facility do not exceed approximately 75 percent of the average per diem charges or costs of similar psychiatric service provided in a psychiatric or general hospital.

(5) (A) The State Department of Mental Health may set a lower rate for private or public facilities than that required by paragraph (3) or paragraph (4), respectively if so required by the federal Health Care Financing Administration as a condition for the receipt of federal matching funds.

(B) This section does not impose any obligation on any private facility to contract with a county for the provision of services to Medi-Cal beneficiaries, and any contract for that purpose is subject to the agreement of the participating facility.

(6) (A) In using the guidelines specified in this subdivision, the department shall take into account local conditions affecting the costs or charges.

(B) In those psychiatric health facilities authorized by special permit to offer structured outpatient services not exceeding

10 daytime hours, the following limits on per diem rates shall apply:

(i) The per diem charge for patients in both a morning and an afternoon program on the same day shall not exceed 60 percent of the facility's authorized per diem charge for inpatient services.

(ii) The per diem charge for patients in either a morning or afternoon program shall not exceed 30 percent of the facility's authorized per diem charge for inpatient services.

(i) The licensing fees charged for these facilities shall be credited to the State Department of Mental Health for its costs incurred in the review of psychiatric health facility programs, in connection with the licensing of these facilities.

(j) Proposed changes in the standards or regulations affecting health facilities that serve the mentally disordered shall be effected only with the review and coordination of the Health and Welfare Agency.

(k) In psychiatric health facilities where the clinical director is not a physician, a psychiatrist, or if one is temporarily not available, a physician shall be designated who shall direct those medical treatments and services that can only be provided by, or under the direction of, a physician.

(Amended by Stats. 1994, Ch. 329, Sec. 1. Effective January 1, 1995.)

Article 4. Social Rehabilitation Facilities and Community Residential Treatment Programs

(Article 4 added by Stats. 1991, Ch. 89, Sec. 46. Effective June 30, 1991.)

4090. (a) The State Department of Mental Health shall establish, by regulation, standards for the programs listed in Chapter 2.5 (commencing with Section 5670) of Part 2 of Division 5. These standards shall also be applied by the department to any facility licensed as a social rehabilitation facility pursuant to paragraph (7) of subdivision (a) of Section 1502 of the Health and Safety Code.

(b) In establishing the standards required by this section, the department shall not establish standards which in themselves impose any new or increased costs on the programs or facilities affected by the standards.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 46. Effective June 30, 1991.)

4091. Nothing in Section 4090 limits the authority of the State Department of Mental Health to delegate the evaluation and enforcement of the program standards to a county mental health program when a licensed social rehabilitation facility has a contractual relationship with a county mental health program and the county has

requested the delegation.

(Amended by Stats. 1992, Ch. 1374, Sec. 5. Effective October 28, 1992.)

Article 5. Programs for Seriously Emotionally Disturbed Children and Court Wards and Dependents

(Article 5 added by Stats. 1991, Ch. 89, Sec. 47. Effective June 30, 1991.)

4094. (a) The State Department of Mental Health shall establish, by regulations adopted at the earliest possible date, but no later than December 31, 1994, program standards for any facility licensed as a community treatment facility. This section shall apply only to community treatment facilities described in this subdivision.

(b) A certification of compliance issued by the State Department of Mental Health shall be a condition of licensure for the community treatment facility by the State Department of Social Services. The department may, upon the request of a county, delegate the certification and supervision of a community treatment facility to the county department of mental health.

(c) The State Department of Mental Health shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of Mental Health shall certify that a facility requesting licensure as a community treatment facility pursuant to Section 1502 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of Mental Health shall deny a certification to a facility or decertify a facility licensed as a community treatment facility pursuant to Section 1502 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of Mental Health for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of Mental Health when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of Mental Health to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

(d) The standards adopted by regulations pursuant to subdivision (a) shall include, but not be limited to, standards for

treatment staffing and for the use of psychotropic medication, discipline, and restraint in the facilities. The standards shall also meet the requirements of Section 4094.5.

(e) During the initial public comment period for the adoption of the regulations required by this section, the community care facility licensing regulations proposed by the State Department of Social Services and the program standards proposed by the State Department of Mental Health shall be presented simultaneously.

(f) A minor shall be admitted to a community treatment facility only if the requirements of Section 4094.5 and either of the following conditions is met:

(1) The minor is within the jurisdiction of the juvenile court, and has made voluntary application for mental health services pursuant to Section 6552.

(2) Informed consent is given by a parent, guardian, conservator, or other person having custody of the minor.

(g) Any minor admitted to a community treatment facility shall have the same due process rights afforded to a minor who may be admitted to a state hospital, pursuant to the holding in In re Roger S. (1977) 19 Cal. 3d 921. Minors who are wards or dependents of the court and to whom this subdivision applies shall be afforded due process in accordance with Section 6552 and related case law, including In re Michael E. (1975) 15 Cal. 3d 183. Regulations adopted pursuant to Section 4094 shall specify the procedures for ensuring these rights, including provisions for notification of rights and the time and place of hearings.

(h) Notwithstanding Section 13340 of the Government Code, the sum of forty-five thousand dollars ($45,000) is hereby appropriated annually from the General Fund to the State Department of Mental Health for one personnel year to carry out the provisions of this section.

(Amended by Stats. 1993, Ch. 1245, Sec. 4. Effective October 11, 1993.)

4094.5. Regulations for community treatment facilities adopted pursuant to Section 4094 shall include, but not be limited to, the following:

(a) Only seriously emotionally disturbed children, as defined in Section 5699.2, for whom other less restrictive mental health interventions have been tried, as documented in the case plan, or who are currently placed in an acute psychiatric hospital or state hospital or in a facility outside the state for mental health treatment, and who may require periods of containment to participate in, and benefit from, mental health treatment, shall be placed in a community treatment facility. For purposes of this subdivision, lesser restrictive interventions shall include, but are not limited to, outpatient therapy, family counseling, case management, family preservation efforts, special education classes, or nonpublic

schooling.

(b) A facility shall have the capacity to provide secure containment. For purposes of this section, a facility or an area of a facility shall be defined as secure if residents are not permitted to leave the premises of their own volition. All or part of a facility, including its perimeter, but not a room alone, may be locked or secure. If a facility uses perimeter fencing, all beds within the perimeter shall be considered secure beds. All beds outside of a locked or secure wing or facility shall be considered nonsecure beds.

(c) A locked or secure program in a facility shall not be used for disciplinary purposes, but shall be used for the protection of the minor. It may be used as a treatment modality for a child needing that level of care. The use of the secure facility program shall be for as short a period as possible, consistent with the child's case plan and safety. The department shall develop regulations governing the oversight, review, and duration of the use of secure beds.

(d) Fire clearance approval shall be obtained pursuant to Section 1531.2 of the Health and Safety Code.

(e) (1) Prior to admission, any child admitted to a community treatment facility shall have been certified as seriously emotionally disturbed, as defined in Section 5699.2, by a licensed mental health professional. The child shall, prior to admission, have been determined to be in need of the level of care provided by a community treatment facility, by a county interagency placement committee, as prescribed by Section 4096.

(2) Any county cost associated with the certification and the determination provided for in paragraph (1) may be billed as a utilization review expense.

(Added by Stats. 1993, Ch. 1245, Sec. 5. Effective October 11, 1993.)

4094.6. The patients' rights provisions contained in Sections 5325, 5325.1, 5325.2, and 5326 shall be available to any child admitted to, or eligible for admission to, a community treatment facility. Every child placed in a community treatment facility shall have a right to a hearing by writ of habeas corpus, within two judicial days of the filing of a petition for the writ of habeas corpus with the superior court of the county in which the facility is located, for his or her release. Regulations adopted pursuant to Section 4094 shall specify the procedures by which this right shall be ensured. These regulations shall generally be consistent with the procedures contained in Section 5275 et seq., concerning habeas corpus for individuals, including children, subject to various involuntary holds.

(Added by Stats. 1993, Ch. 1245, Sec. 6. Effective October 11, 1993.)

4094.7. (a) A community treatment facility may have both secure and nonsecure beds. However, the State Department of Mental Health shall limit the total number of beds in community treatment facilities to not more than 400 statewide. The State Department of Mental Health shall certify community treatment facilities in such a manner as to ensure an adequate dispersal of these facilities within the state. The State Department of Mental Health shall ensure that there is at least one facility in each of the State Department of Social Services' four regional licensing divisions.

(b) The State Department of Mental Health shall notify the State Department of Social Services when a facility has been certified and has met the program standards pursuant to Section 4094. The State Department of Social Services shall license a community treatment facility for a specified number of secure beds and a specified number of nonsecure beds. The number of secure and nonsecure beds in a facility shall be modified only with the approval of both the State Department of Social Services and the State Department of Mental Health.

(c) The State Department of Mental Health shall develop, with the advice of the State Department of Social Services, county representatives, providers, and interested parties, the criteria to be used to determine which programs among applicant providers shall be licensed. The State Department of Mental Health shall determine which agencies best meet the criteria, certify them in accordance with Section 4094, and refer them to the State Department of Social Services for licensure.

(d) Any community treatment facility proposing to serve seriously emotionally disturbed foster children shall be incorporated as a nonprofit organization.

(e) No later than January 1, 1996, the State Department of Mental Health shall submit its recommendation to the appropriate policy committees of the Legislature relative to the limitation on the number of beds set forth in this section.

(Added by Stats. 1993, Ch. 1245, Sec. 7. Effective October 11, 1993.)

4095. (a) It is the intent of the Legislature that essential and culturally relevant mental health assessment, case management, and treatment services be available to wards of the court and dependent children of the court placed out of home or who are at risk of requiring out-of-home care. This can be best achieved at the community level through the active collaboration of county social service, probation, education, mental health agencies, and foster care providers.

(b) Therefore, using the Children's Mental Health Services Act (Part 4 (commencing with Section 5850) of Division 5) as a guideline, the State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors, the State

Department of Social Services, the County Welfare Directors Association, the Chief Probation Officer's Association, county alcohol and drug program administrators, and foster care providers, shall do all of the following:

(1) By July 1, 1994, develop an individualized mental health treatment needs assessment protocol for wards of the court and dependent children of the court.

(2) Define supplemental services to be made available to the target population, including, but not limited to, services defined in Section 540 and following of Title 9 of the California Code of Regulations as of January 1, 1994, family therapy, prevocational services, and crisis support activities.

(3) Establish statewide standardized rates for the various types of services defined by the department in accordance with paragraph (2), and provided pursuant to this section. The rates shall be designed to reduce the impact of competition for scarce treatment resources on the cost and availability of care. The rates shall be implemented only when the state provides funding for the services described in this section.

(4) By January 1, 1994, to the extent state funds are available to implement this section, establish, by regulation, all of the following:

(A) Definitions of priority ranking of subsets of the court wards and dependents target population.

(B) A procedure to certify the mental health programs.

(c) (1) Only those individuals within the target population as defined in regulation and determined to be eligible for services as a result of a mental health treatment needs assessment may receive services pursuant to this section.

(2) Allocation of funds appropriated for the purposes of this section shall be based on the number of wards and dependents and may be adjusted in subsequent fiscal years to reflect costs.

(3) The counties shall be held harmless for failure to provide any assessment, case management, and treatment services to those children identified in need of services for whom there is no funding.

(d) (1) The department shall make information available to the Legislature, on request, on the service populations provided mental health treatment services pursuant to this section, the types and costs of services provided, and the number of children identified in need of treatment services who did not receive the services.

(2) The information required by paragraph (1) may include information on need, cost, and service impact experience from the following:

(A) Family preservation pilot programs.

(B) Pilot programs implemented under the former Children's Mental Health Services Act, as contained in Chapter 6.8 (commencing with Section 5565.10) of Part 1 of Division 5.

(C) Programs implemented under Chapter 26 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and Section 11401.

(D) County experience in the implementation of Section 4096.

(Amended by Stats. 1992, Ch. 714, Sec. 3. Effective September 15, 1992.)

4096. (a) (1) Interagency collaboration and children's program services shall be structured in a manner that will facilitate future implementation of the goals of the Children's Mental Health Services Act.

(2) Components shall be added to state-county performance contracts required in Section 5650 that provide for reports from counties on how this section is implemented.

(3) The department shall develop performance contract components required by paragraph (2).

(4) Performance contracts subject to this section shall document that the procedures to be implemented in compliance with this section have been approved by the county social services department and the county probation department.

(b) Funds specified in subdivision (a) of Section 17601 for services to wards of the court and dependent children of the court shall be allocated and distributed to counties based on the number of wards of the court and dependent children of the court in the county.

(c) A county may utilize funds allocated pursuant to subdivision (b) only if the county has an established and operational interagency placement committee, with a membership that includes at least the county placement agency and a licensed mental health professional from the county department of mental health. If necessary, the funds may be used for costs associated with establishing the interagency placement committee.

(d) Subsequent to the establishment of an interagency placement committee, funds allocated pursuant to subdivision (b) shall be used to provide services to wards of the court and dependent children of the court jointly identified by county mental health, social services, and probation departments as the highest priority. Every effort shall be made to match those funds with funds received pursuant to Title XIX of the federal Social Security Act, contained in Subchapter 19 (commencing with Section 1396) of Chapter 7 of Title 42 of the United States Code.

(e) (1) Each interagency placement committee shall establish procedures whereby a ward of the court or dependent child of the court, or a voluntarily placed child whose placement is funded by the Aid to Families with Dependent Children-Foster Care Program, who is to be placed or is currently placed in a group home program at a rate classification level 13 or rate classification level 14 as specified in Section 11462.01, is assessed as seriously emotionally

disturbed, as defined in Section 5600.3 and Section 1502.4 of the Health and Safety Code.

(2) The assessment required by paragraph (1) shall also indicate that the child is in need of the care and services provided by that group home program.

(f) The interagency placement committee shall document the results of the assessment required by subdivision (e) and shall notify the appropriate group home provider and county placing agency, in writing, of those results within 10 days of the completion of the assessment.

(g) If the child's placement is not funded by the Aid to Families with Dependent Children-Foster Care Program, a licensed mental health professional, as defined in Sections 629 to 633, inclusive, of Title 9 of the California Code of Regulations, shall certify that the child is seriously emotionally disturbed, as defined in Section 5600.3 and Section 1502.4 of the Health and Safety Code.

(Amended by Stats. 1994, Ch. 199, Sec. 2. Effective July 18, 1994.)

4096.5. (a) The department shall make a determination, within 45 days of receiving a request from a group home to be classified at RCL 13 or RCL 14 pursuant to Section 11462.01, to certify or deny certification that the group home program includes provisions for mental health treatment services that meet the needs of seriously emotionally disturbed children. The department shall issue each certification for a period of one year and shall specify the effective date the program met the certification requirements. A program may be recertified if the program continues to meet the criteria for certification.

(b) The department shall, in consultation with the Conference of Local Mental Health Directors and representatives of provider organizations, develop the criteria for the certification required by subdivision (a) by July 1, 1992.

(c) (1) The department may, upon the request of a county, delegate to that county the certification task.

(2) Any county to which the certification task is delegated pursuant to paragraph (1) shall use the criteria and format developed by the department.

(d) The department or delegated county shall notify the State Department of Social Services Community Care Licensing Division immediately upon the termination of any certification issued in accordance with subdivision (a).

(Amended by Stats. 1994, Ch. 199, Sec. 3. Effective July 18, 1994.)

PART 2. ADMINISTRATION OF STATE INSTITUTIONS FOR THE MENTALLY DISORDERED

(Heading of Part 2 redesignated from Chapter 2 by Stats. 1977, Ch. 1252.)

CHAPTER 1. JURISDICTION AND GENERAL GOVERNMENT
(Heading of Chapter 1 redesignated from Article 1 by Stats. 1977, Ch. 1252.)

4100. The department has jurisdiction over the following institutions:

(a) Atascadero State Hospital.

(b) Metropolitan State Hospital.

(c) Napa State Hospital.

(d) Patton State Hospital.

(Amended by Stats. 1986, Ch. 224, Sec. 5. Effective June 30, 1986. Operative July 1, 1986, by Sec. 16 of Ch. 224.)

4100.5. The department may contract with the State Department of Developmental Services to provide services to persons with mental disorders in state hospitals under the jurisdiction of the State Department of Developmental Services.

(Added by Stats. 1978, Ch. 429.)

4101. Except as otherwise specifically provided elsewhere in this code, all of the institutions under the jurisdiction of the State Department of Mental Health shall be governed by uniform rule and regulation of the State Department of Mental Health and all of the provisions of this chapter shall apply to the conduct and management of such institutions.

(Amended by Stats. 1977, Ch. 1252.)

4102. Each state hospital is a corporation.

(Repealed and added by Stats. 1967, Ch. 1667.)

4103. Each such corporation may acquire and hold in its corporate name by gift, grant, devise, or bequest property to be applied to the maintenance of the patients of the hospital and for the general use of the corporation.

(Repealed and added by Stats. 1967, Ch. 1667.)

4104. All lands necessary for the use of the state hospitals specified in Section 4100, except those acquired by gift, devise, or purchase, shall be acquired by condemnation as lands for other public uses are acquired.

The terms of every purchase shall be approved by the State Department of Mental Health. No public street or road for railway or other purposes, except for hospital use, shall be opened through the lands of any state hospital, unless the Legislature by special enactment consents thereto.

(Amended by Stats. 1977, Ch. 1252.)

4105. The Director of General Services shall grant to the County of San Bernardino under such terms, conditions, and restrictions as he or she deems to be for the best interests of the state, the necessary easements and rights-of-way for all purposes of a public road on the Patton State Hospital property. The right-of-way shall be across, along, and upon the following described property:

The east 40 feet of the east one-half of the northwest one-quarter of Section 32, Township 1 North, Range 3 West, San Bernardino Base and Meridian, in the County of San Bernardino, State of California.

(Added by renumbering Section 4445.5 by Stats. 1986, Ch. 224, Sec. 9. Effective June 30, 1986.)

4106. Notwithstanding the provisions of Section 4104, the Director of General Services, with the consent of the State Department of Mental Health, may grant to the County of Napa a right-of-way for public road purposes over the northerly portion of the Napa State Hospital lands for the widening of Imola Avenue between Penny Lane and Fourth Avenue, upon such terms and conditions as the Director of General Services may deem for the best interests of the state.

(Added by renumbering Section 4446.5 by Stats. 1986, Ch. 224, Sec. 11. Effective June 30, 1986. Operative July 1, 1986, by Sec. 16 of Ch. 224.)

4107. (a) The security of patients committed pursuant to Section 1026 of, and Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of, the Penal Code, and former Sections 6316 and 6321 of the Welfare and Institutions Code, at Patton State Hospital shall be the responsibility of the Director of the Department of Corrections.

(b) The Department of Corrections and the State Department of Mental Health shall jointly develop a plan to transfer all patients committed to Patton State Hospital pursuant to the provisions in subdivision (a) from Patton State Hospital no later than January 1, 1986, and shall transmit this plan to the Senate Committee on Judiciary and to the Assembly Committee on Criminal Justice, and to the Senate Health and Welfare Committee and Assembly Health Committee by June 30, 1983. The plan shall address whether the transferred patients shall be moved to other state hospitals or to correctional facilities, or both, for commitment and treatment.

(c) Notwithstanding any other provision of law, the State Department of Mental Health shall house no more than 1,336 patients at Patton State Hospital.

(d) This section shall remain in effect only until all patients committed, pursuant to the provisions enumerated in subdivision (a), have been removed from Patton State Hospital and shall have no force or effect on or after that date.

(Amended by Stats. 1986, Ch. 933, Sec. 4. Section

conditionally inoperative by its own provisions. Note: Previously, this section was renumbered from 4456.5 by Stats. 1986, Ch. 224.)

4109. The State Department of Mental Health has general control and direction of the property and concerns of each state hospital specified in Section 4100. The department shall:

(a) Take care of the interests of the hospital, and see that its purpose and its bylaws, rules, and regulations are carried into effect, according to law.

(b) Establish such bylaws, rules, and regulations as it deems necessary and expedient for regulating the duties of officers and employees of the hospital, and for its internal government, discipline, and management.

(c) Maintain an effective inspection of the hospital.

(Amended by Stats. 1977, Ch. 1252.)

4109.5. (a) Whenever the department proposes the closure of a state hospital, it shall submit as part of the Governor's proposed budget to the Legislature a complete program, to be developed jointly by the State Department of Mental Health and the county in which the state hospital is located, for absorbing as many of the staff of the hospital into the local mental health programs as may be needed by the county. Those programs shall include a redefinition of occupational positions, if necessary, and a recognition by the counties of licensed psychiatric technicians for treatment of the mentally disordered, developmentally disabled, drug abusers, and alcoholics.

(b) The Director of Mental Health shall submit all plans for the closure of state hospitals as a report with the department's budget. This report shall include all of the following:

(1) The land and buildings affected.

(2) The number of patients affected.

(3) Alternative plans for patients presently in the facilities.

(4) Alternative plans for patients who would have been served by the facility assuming it was not closed.

(5) A joint statement of the impact of the closure by the department and affected local treatment programs.

(c) These plans may be submitted to the Legislature until April 1 of each budget year. Any plans submitted after that date shall not be considered until the fiscal year following that in which it is being considered.

(d) The plan shall not be placed into effect unless the Legislature specifically approves the plan.

(Added by Stats. 1991, Ch. 89, Sec. 48. Effective June 30, 1991.)

4110. The medical superintendent shall make triplicate

estimates, in minute detail, as approved by the State Department of Mental Health, of such supplies, expenses, buildings, and improvements as are required for the best interests of the hospital, and for the improvement thereof and of the grounds and buildings connected therewith. These estimates shall be submitted to the State Department of Mental Health, which may revise them. The department shall certify that it has carefully examined the estimates, and that the supplies, expenses, buildings, and improvements contained in such estimates, as approved by it, are required for the best interests of the hospital. The department shall thereupon proceed to purchase such supplies, make such expenditures, or conduct such improvements or buildings in accordance with law.

(Amended by Stats. 1977, Ch. 1252.)

4111. The state hospitals may manufacture supplies and materials necessary or required to be used in any of the state hospitals which can be economically manufactured therein. The necessary cost and expense of providing for and conducting the manufacture of such supplies and materials shall be paid in the same manner as other expenses of the hospitals. No hospital shall enter into or engage in manufacturing any supplies or materials unless permission for the same is obtained from the State Department of Mental Health. If, at any time, it appears to the department that the manufacture of any article is not being or cannot be economically carried on at a state hospital, the department may suspend or stop the manufacture of such article, and on receipt of a certified copy of the order directing the suspension or stopping of such manufacture, by the medical superintendent, the hospital shall cease from manufacturing such article.

(Amended by Stats. 1977, Ch. 1252.)

4112. All money belonging to the state and received by state hospitals from any source, except appropriations, shall, at the end of each month, be deposited in the State Treasury, to the credit of the General Fund. This section shall not apply to the funds known as the industrial or amusement funds.

(Repealed and added by Stats. 1967, Ch. 1667.)

4112.1. Section 4112 does not apply to the funds known as the "sheltered workshop funds."

(Added by Stats. 1969, Ch. 722.)

4113. The state hospitals and the officers thereof shall make such financial statements to the Controller as the Controller requires.

(Repealed and added by Stats. 1967, Ch. 1667.)

4114. The authorities for the several hospitals shall

furnish to the State Department of Mental Health the facts mentioned in Section 4019 of this code and such other obtainable facts as the department from time to time requires of them, with the opinion of the superintendent thereon, if requested. The superintendent or other person in charge of a hospital shall, within 10 days after the admission of any person thereto, cause an abstract of the medical certificate and order on which such person was received and a list of all property, books, and papers of value found in the possession of or belonging to such person to be forwarded to the office of the department, and when a patient is discharged, transferred, or dies, the superintendent or person in charge shall within three days thereafter, send the information to the office of the department, in accordance with the form prescribed by it.

(Amended by Stats. 1977, Ch. 1252.)

4115. The department may permit, subject to such conditions and regulations as it may impose, any religious or missionary corporation or society to erect a building on the grounds of any state hospital for the holding of religious services. Each such building when erected shall become the property of the state and shall be used exclusively for the benefit of the patients and employees of the state hospital.

(Repealed and added by Stats. 1967, Ch. 1667.)

4116. The department may establish and supervise under its rules and regulations training schools or courses for employees of the department or of state institutions under its jurisdiction.

(Repealed and added by Stats. 1967, Ch. 1667.)

4117. (a) Whenever a trial is had of any person charged with escape or attempt to escape from a state hospital, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any person confined in a state hospital except in a proceeding to which Section 5110 applies, whenever a hearing is had on a petition under Section 1026.2, subdivision (b) of Section 1026.5, Section 2972 of the Penal Code, Section 7361 of this code, or former Section 6316.2 of this code for the release of a person confined in a state hospital, and whenever a person confined in a state hospital is tried for any crime committed therein, the county clerk of the county in which the trial or hearing is had shall make out a statement of all mental health treatment costs and shall make out a separate statement of all nontreatment costs incurred by the county for investigation and other preparation for the trial or hearing, and the actual trial or hearing, all costs of maintaining custody of the patient and transporting him or her to and from the hospital, and costs of appeal, which statements shall be properly certified by a judge of the superior court of that county and the statement of mental treatment costs shall be sent to the State Department of Mental Health and the

statement of all nontreatment costs shall be sent to the Controller for approval. After approval, the department shall cause the amount of mental health costs incurred on or after July 1, 1987, to be paid to the county mental health director or his or her designee where the trial or hearing was held out of the money appropriated for this purpose by the Legislature. In addition the Controller shall cause the amount of all nontreatment costs incurred on and after July 1, 1987, to be paid out of the money appropriated by the Legislature, to the county treasurer of the county where the trial or hearing was had.

(b) Whenever a hearing is held pursuant to Section 1604, 1608, or 1609 of the Penal Code, all transportation costs to and from a state hospital or a facility designated by the community program director during the hearing shall be paid by the Controller as provided in this subdivision. The county clerk of the county in which a hearing is held shall make out a statement of all transportation costs incurred by the county which statement shall be properly certified by a judge of the superior court of that county and sent to the Controller for approval. The Controller shall cause the amount of transportation costs incurred on and after July 1, 1987, to be paid to the county treasurer of the county where the hearing was had out of the money appropriated by the Legislature.

As used in this subdivision the community program director is the person designated pursuant to Section 1605 of the Penal Code.

(Amended by Stats. 1991, Ch. 435, Sec. 6.)

4118. The State Department of Mental Health shall cooperate with the United States Bureau of Immigration in arranging for the deportation of all aliens who are confined in, admitted, or committed to any state hospital.

(Amended by Stats. 1977, Ch. 1252.)

4119. The State Department of Mental Health shall investigate and examine all nonresident persons residing in any state hospital for the mentally disordered and shall cause these persons, when found to be nonresidents as defined in this chapter, to be promptly and humanely returned under proper supervision to the states in which they have legal residence. The department may defer such action by reason of a patient's medical condition.

Prior to returning the judicially committed nonresident to his or her proper state of residency, the department shall:

(a) Obtain the written consent of the prosecuting attorney of the committing county, the judicially committed nonresident person, and the attorney of record for the judicially committed nonresident person; or,

(b) In the department's discretion request a hearing in the superior court of the committing county requesting a judicial determination of the proposed transfer, notify the court that the state of residence has agreed to the transfer, and file the

department's recommendation with a report explaining the reasons for its recommendation.

The court shall give notice of such a hearing to the prosecuting attorney, the judicially committed nonresident person, the attorney of record for the judicially committed nonresident person and the department, no less than 30 days before such hearing. At the hearing, the prosecuting attorney and the judicially committed nonresident person may present evidence bearing on the intended transfer. After considering all evidence presented, the court shall determine whether the intended transfer is in the best interest of and for the proper protection of the nonresident person and the public. The court shall use the same procedures and standard of proof as used in conducting probation revocation hearings pursuant to Section 1203.2 of the Penal Code.

For the purpose of facilitating the prompt and humane return of such persons, the State Department of Mental Health may enter into reciprocal agreements with the proper boards, commissions, or officers of other states or political subdivision thereof for the mutual exchange or return of persons residing in any state hospital for the mentally disordered in one state whose legal residence is in the other, and it may in these reciprocal agreements vary the period of residence as defined in this chapter to meet the requirements or laws of the other states.

The department may give written permission for the return of any resident of this state confined in a public institution in another state, corresponding to any state hospital for the mentally disordered of this state. When a resident is returned to this state pursuant to this chapter, he or she may be admitted as a voluntary patient to any institution of the department as designated by the Director of Mental Health. If he or she is mentally disordered and is a danger to himself or herself or others, or he or she is gravely disabled, he or she may be detained and given care and services in accordance with the provisions of Part 1 (commencing with Section 5000) of Division 5.

(Amended by Stats. 1984, Ch. 1192, Sec. 2.)

4120. Except as otherwise provided in this section in determining residence for purposes of being entitled to hospitalization in this state and for purposes of returning patients to the states of their residence, an adult person who has lived continuously in this state for a period of one year and who has not acquired residence in another state by living continuously therein for at least one year subsequent to his residence in this state shall be deemed to be a resident of this state. Except as otherwise provided in this section a minor is entitled to hospitalization in this state if the parent or guardian or conservator having custody of the minor has lived continuously in this state for a period of one year and has not acquired residence in another state by living continuously therein

for at least one year subsequent to his residence in this state. Such parent, guardian, or conservator shall be deemed a resident of this state for the purposes of this section, and such minor shall be eligible for hospitalization in this state as a mentally disordered person. The eligibility of such minor for hospitalization in this state ceases when such parent, guardian, or conservator ceases to be a resident of this state and such minor shall be transferred to the state of residence of the parent, guardian, or conservator in accordance with the applicable provisions of this code. Time spent in a public institution for the care of the mentally disordered or developmentally disabled or on leave of absence therefrom shall not be counted in determining the matter of residence in this or another state.

Residence acquired in this or in another state shall not be lost by reason of military service in the armed forces of the United States.

(Amended by Stats. 1979, Ch. 730.)

4121. All expenses incurred in returning such persons to other states shall be paid by this state, the person or his relatives, but the expense of returning residents of this state shall be borne by the states making the returns.

The cost and expense incurred in effecting the transportation of such nonresident persons to the states in which they have residence shall be advanced from the funds appropriated for that purpose, or, if necessary, from the money appropriated for the care of delinquent or mentally disordered persons upon vouchers approved by the State Board of Control.

(Amended by Stats. 1979, Ch. 373.)

4122. The State Department of Mental Health, when it deems it necessary, may, under conditions prescribed by the director, transfer any patients of a state institution under its jurisdiction to another such institution. Transfers of patients of state hospitals shall be made in accordance with the provisions of Section 7300.

Transfer of a conservatee shall only be with the consent of the conservator.

The expense of any such transfer shall be paid from the moneys available by law for the support of the department or for the support of the institution from which the patient is transferred. Liability for the care, support, and maintenance of a patient so transferred in the institution to which he has been transferred shall be the same as if he had originally been committed to such institution. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount due the state for care, support, and maintenance of any such patients and which the county shall process and pay pursuant to the provisions

of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(Amended by Stats. 1977, Ch. 1252.)

4123. The Director of Mental Health may authorize the transfer of persons from any institution within the department to any institution authorized by the federal government to receive such person.

(Amended by Stats. 1977, Ch. 1252.)

4124. The State Department of Mental Health shall send to the Department of Veterans Affairs whenever requested a list of all persons who have been patients for six months or more in each state institution within the jurisdiction of the State Department of Mental Health and who are known to have served in the armed forces of the United States.

(Amended by Stats. 1977, Ch. 1252.)

4125. The Director of Mental Health may deposit any funds of patients in the possession of each hospital administrator of a state hospital in trust with the treasurer pursuant to Section 16305.3, Government Code, or, subject to the approval of the Department of Finance, may deposit such funds in interest-bearing bank accounts or invest and reinvest such funds in any of the securities which are described in Article 1 (commencing with Section 16430), Chapter 3, Part 2, Division 4, Title 2 of the Government Code and for the purposes of deposit or investment only may mingle the funds of any patient with the funds of other patients. The hospital administrator with the consent of the patient may deposit the interest or increment on the funds of a patient in the state hospital in a special fund for each state hospital, to be designated the "Benefit Fund," of which he shall be the trustee. He may, with the approval of the Director of Mental Health, expend the moneys in any such fund for the education or entertainment of the patients of the institution.

On and after December 1, 1970, the funds of a patient in a state hospital or a patient on leave of absence from a state hospital shall not be deposited in interest-bearing bank accounts or invested and reinvested pursuant to this section except when authorized by the patient; any interest or increment accruing on the funds of a patient on leave of absence from a state hospital shall be deposited in his account; any interest or increment accruing on the funds of a patient in a state hospital shall be deposited in his account, unless such patient authorizes their deposit in the state hospital's "benefit fund."

Any state hospital charges for patient care against the funds of a patient in the possession of a hospital administrator or deposited pursuant to this section and which are used to pay for such care, shall be stated in an itemized bill to the patient.

(Amended by Stats. 1977, Ch. 1252.)

4126. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health dies, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative all money and other personal property of such decedent remaining in the custody or possession of the superintendent thereof shall be held by him for a period of one year from the date of death of the decedent, for the benefit of the heirs, legatees, or successors in interest of such decedent.

Upon the expiration of said one-year period, any money remaining unclaimed in the custody or possession of the superintendent shall be delivered by him to the State Treasurer for deposit in the Unclaimed Property Fund under the provision of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of said one-year period, all personal property and documents of the decedent, other than cash, remaining unclaimed in the custody or possession of the superintendent, shall be disposed of as follows:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of the decedent;

(b) All other personal property shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale delivered by him to the State Treasurer in the same manner as is herein provided with respect to unclaimed money of the decedent. If he deems it expedient to do so, the superintendent may accumulate the property of several decedents and sell the property in such lots as he may determine, provided that he makes a determination as to each decedent's share of the proceeds;

(c) If any personal property of the decedent is not salable at public auction, or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify the deposit of such property in the State Treasury, the superintendent may order it destroyed;

(d) All other unclaimed personal property of the decedent not disposed of as provided in paragraph (a), (b), or (c) hereof, shall be delivered by the superintendent to the State Controller for deposit in the State Treasury under the provisions of Article 1 (commencing with Section 1440) of Chapter 6 of Title 10 of Part 3 of the Code of Civil Procedure.

(Amended by Stats. 1978, Ch. 429.)

4127. Whenever any patient in any state institution subject to the jurisdiction of the State Department of Mental Health

escapes, or is discharged or is on leave of absence from such institution, and any personal funds or property of such patient remains in the hands of the superintendent thereof, and no demand is made upon said superintendent by the owner of the funds or property or his legally appointed representative, all money and other intangible personal property of such patient, other than deeds, contracts, or assignments, remaining in the custody or possession of the superintendent thereof shall be held by him for a period of seven years from the date of such escape, discharge, or leave of absence, for the benefit of such patient or his successors in interest; provided, however, that unclaimed personal funds or property of minors on leave of absence may be exempted from the provisions of this section during the period of their minority and for a period of one year thereafter, at the discretion of the Director of Mental Health.

Upon the expiration of said seven-year period, any money and other intangible property, other than deeds, contracts, or assignments, remaining unclaimed in the custody or possession of the superintendent shall be subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

Upon the expiration of one year from the date of such escape, discharge or parole:

(a) All deeds, contracts or assignments shall be filed by the superintendent with the public administrator of the county of commitment of such patient.

(b) All tangible personal property other than money, remaining unclaimed in his custody or possession, shall be sold by the superintendent at public auction, or upon a sealed-bid basis, and the proceeds of the sale shall be held by him subject to the provisions of Section 4125 of this code, and subject to the provisions of Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure. If he deems it expedient to do so, the superintendent may accumulate the property of several patients and may seal the property in such lots as he may determine, provided that he makes a determination as to each patient's share of the proceeds.

If any tangible personal property covered by this section is not salable at public auction or upon a sealed-bid basis, or if it has no intrinsic value, or if its value is not sufficient to justify its retention by the superintendent to be offered for sale at public auction or upon a sealed-bid basis at a later date, the superintendent may order it destroyed.

(Amended by Stats. 1978, Ch. 429.)

4128. Before any money or other personal property or documents are delivered to the State Treasurer, State Controller, or public administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 4126, and before any personal property or documents are delivered to the public

administrator, or sold at auction or upon a sealed-bid basis, or destroyed, under the provisions of Section 4127, of this code, notice of said intended disposition shall be posted at least 30 days prior to the disposition, in a public place at the institution where the disposition is to be made, and a copy of such notice shall be mailed to the last known address of the owner or deceased owner, at least 30 days prior to such disposition. The notice prescribed by this section need not specifically describe each item of property to be disposed of.

(Repealed and added by Stats. 1967, Ch. 1667.)

4129. At the time of delivering any money or other personal property to the State Treasurer or State Controller under the provisions of Section 4126 or of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure, the superintendent shall deliver to the State Controller a schedule setting forth a statement and description of all money and other personal property delivered, and the name and last known address of the owner or deceased owner.

(Repealed and added by Stats. 1967, Ch. 1667.)

4130. When any personal property has been destroyed as provided in Sections 4126 or 4127, no suit shall thereafter be maintained by any person against the state or any officer thereof for or on account of such property.

(Repealed and added by Stats. 1967, Ch. 1667.)

4131. Notwithstanding any other provision of law, the provisions of Sections 4126 and 4127 shall apply (1) to all money and other personal property delivered to the State Treasurer or State Controller prior to the effective date of said sections, which would have been subject to the provisions thereof if they had been in effect on the date of such delivery; and (2) to all money and other personal property delivered to the State Treasurer or State Controller prior to the effective date of the 1961 amendments to said sections, as said provisions would have applied on the date of such delivery if, on said date of delivery, the provisions of Chapter 1809, Statutes of 1959, had not been in effect.

(Repealed and added by Stats. 1967, Ch. 1667.)

4132. It is hereby declared that the provisions of this code reflect the concern of the Legislature that mentally disordered persons are to be regarded as patients to be provided care and treatment and not as inmates of institutions for the purposes of secluding them from the rest of the public.

Whenever any provision of this code heretofore or hereafter enacted uses the term "inmate," it shall be construed to mean "patient."

(Repealed and added by Stats. 1967, Ch. 1667.)

4133. All day hospitals and rehabilitation centers maintained by the State Department of Mental Health shall be subject to the provisions of this code pertaining to the admission, transfer, and discharge of patients at the state hospitals, except that all admissions to such facilities shall be subject to the approval of the chief officer thereof. Charges for services rendered to patients at such facilities shall be determined pursuant to Section 4025. The liability for such charges shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 2 of Division 7, except at the hospitals maintained by the State Department of Developmental Services such liability shall be governed by the provisions of Article 4 (commencing with Section 6715) of Chapter 3 of Part 2 of Division 6 and Chapter 3 (commencing with Section 7500) of Division 7.

(Amended by Stats. 1979, Ch. 373.)

4134. The state mental hospitals under the jurisdiction of the State Department of Mental Health shall comply with the provisions contained in the California Food Sanitation Act, Article 1 (commencing with Section 28280) of Chapter 7 of Division 21 of the Health and Safety Code.

The state mental hospitals under the jurisdiction of the State Department of Mental Health shall also comply with the provisions contained in the California Restaurant Act, Chapter 11 (commencing with Section 28520) of Division 21 of the Health and Safety Code.

Sanitation, health and hygiene standards which have been adopted by a city, county, or city and county which are more strict than those of the California Restaurant Act or the California Food Sanitation Act shall not be applicable to state mental hospitals which are under the jurisdiction of the State Department of Mental Health.

(Amended by Stats. 1977, Ch. 1252.)

4135. Any person committed to the State Department of Mental Health as a mentally abnormal sex offender shall remain a patient committed to the department for the period specified in the court order of commitment or until discharged by the medical director of the state hospital in which the person is a patient, whichever occurs first. The medical director may grant such patient a leave of absence upon such terms and conditions as the medical director deems proper. The petition for commitment of a person as a mentally abnormal sex offender, the reports, the court orders and other court documents filed in the court in connection therewith shall not be open to inspection by any other than the parties to the proceeding, the attorneys for the party or parties, and the State Department of Mental Health, except upon the written authority of a judge of the superior court of the county in which the proceedings were had.

Records of the supervision, care and treatment given to

each person committed to the State Department of Mental Health as a mentally abnormal sex offender shall not be open to the inspection of any person not in the employ of the department or of the state hospital, except that a judge of the superior court may by order permit examination of such records.

The charges for the care and treatment rendered to persons committed as mentally abnormal sex offenders shall be in accordance with the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

(Amended by Stats. 1977, Ch. 1252.)

4136. Each patient in a state hospital for the mentally disordered who has resided in the state hospital for a period of at least 30 days shall be paid an amount of aid for his personal and incidental needs which when added to his income equals twelve dollars and fifty cents ($12.50) per month.

(Amended by Stats. 1978, Ch. 429.)

4137. Whenever a patient dies in a state mental hospital and the coroner finds that the death was by accident or at the hands of another person other than by accident, the State Department of Mental Health shall determine upon review of the coroner's investigation if such death resulted from the negligence, recklessness, or intentional act of a state employee. If it is determined that such death directly resulted from the negligence, recklessness, or intentional act of a state employee, the department shall immediately notify the State Personnel Board and any appropriate licensing agency and shall terminate the employment of such employee as provided by law. In addition, if such state employee is a licensed mental health professional, the appropriate licensing board shall inquire into the circumstances of such death, examine the findings of the coroner's investigation, and make a determination of whether such mental health professional should have his license revoked or suspended or be subject to other disciplinary action. "Licensed mental health professional," as used in this section, means a person licensed by any board, bureau, department, or agency pursuant to a state law and employed in a state mental hospital.

(Added by Stats. 1978, Ch. 69.)

CHAPTER 2. BOARDS OF TRUSTEES AND OTHER ADVISORY BOARDS

(Heading of Chapter 2 redesignated from Article 2 by Stats. 1977, Ch. 1252.)

4200. (a) Each state hospital under the jurisdiction of the State Department of Mental Health shall have a hospital advisory board of eight members appointed by the Governor from a list of

nominations submitted to him or her by the boards of supervisors of counties within each hospital's designated service area. If a state hospital provides services for both the mentally disordered and the developmentally disabled, there shall be a separate advisory board for the program provided the mentally disordered and a separate board for the program provided the developmentally disabled. To the extent feasible, an advisory board serving a hospital for the mentally disordered shall consist of one member who has been a patient in a state mental hospital and two members shall be the parents, spouse, siblings, or adult children of persons who are or have been patients in a state mental hospital, three representatives of different professional disciplines selected from primary user counties for patients under Part 1 (commencing with Section 5000) of Division 5, and two representatives of the general public who have demonstrated an interest in services to the mentally disordered.

(b) Of the members first appointed after the operative date of the amendments made to this section during the 1975-76 legislative session, one shall be appointed for a term of two years, and one for three years. Thereafter, each appointment shall be for the term of three years, except that an appointment to fill a vacancy shall be for the unexpired term only. No person shall be appointed to serve more than a maximum of two terms as a member of the board.

(c) Notwithstanding any provision of this section, members serving on the hospital advisory board on the operative date of the amendments made to this section during the 1987-88 legislative session, may continue to serve on the board until the expiration of their term. The Legislature intends that changes in the composition of the board required by these amendments apply to future vacancies on the board.

(Amended by Stats. 1991, Ch. 89, Sec. 49. Effective June 30, 1991.)

4201. No person shall be eligible for appointment to a hospital advisory board if he is a Member of the Legislature or an elective state officer, and if he becomes such after his appointment his office shall be vacated and a new appointment made. If any appointee fails to attend three consecutive regular meetings of the board, unless he is ill or absent from the state, his office becomes vacant, and the board, by resolution, shall so declare, and shall forthwith transmit a certified copy of such resolution to the Governor.

(Amended by Stats. 1969, Ch. 459.)

4202. The advisory boards of the several state hospitals are advisory to the State Department of Mental Health and the Legislature with power of visitation and advice with respect to the conduct of the hospitals and coordination with community mental health programs. The members of the boards shall serve without compensation

other than necessary expenses incurred in the performance of duty. They shall organize and elect a chairman. They shall meet at least once every three months and at such other times as they are called by the chairman, by the medical director, by the head of the department or a majority of the board. No expenses shall be allowed except in connection with meetings so held.

(Amended by Stats. 1986, Ch. 1166, Sec. 3.)

4202.5. (a) The chairman of a hospital advisory board advising a hospital for the mentally disordered shall meet annually with the hospital director, the community mental health directors, and the chairmen of the mental health advisory boards representing counties within the hospital's designated service area.

(b) The chairmen shall be allowed necessary expenses incurred in attending such meetings.

(c) It is the intent of the Legislature that the department assist the development of annual regional meetings required by this section.

(Amended by Stats. 1977, Ch. 1252.)

4203. The Atascadero State Hospital shall have an advisory board of seven persons appointed by the Governor, each of whom holds office for the term of three years. To the extent feasible the composition of board membership shall consist of two persons, who at the time of their appointment are relatives of the patient population, three representatives of professional disciplines serving the patient population, and two representatives of the general public. The board shall advise and consult with the department with respect to the conduct of the hospital. The members of the board shall serve without compensation other than necessary expenses incurred in attendance at meetings.

(Amended by Stats. 1975, Ch. 1057.)

CHAPTER 2.5. FAMILIES OF PERSONS WITH SERIOUS MENTAL DISORDERS

(Chapter 2.5 added by Stats. 1989, Ch. 1225, Sec. 1.)

4240. The Legislature finds and declares all of the following:

(a) The symptoms and behaviors of persons with serious mental disorders may cause severe disruption of normal family relationships.

(b) Families are often the principal caregivers, housing providers, and case managers for family members with serious mental disorders.

(c) Families of persons with serious mental disorders more

often than not have little or no legal authority over their adult mentally disordered and sometimes difficult to manage family members and consequently need advice, skills, emotional support, and guidance to cope with the stressful burden of caregiving in order to be effective and helpful.

(d) Involved families are of inestimable value to the publicly funded and professionally operated state and county mental health system and programs emphasizing self-help can be the best way to assist families in maintaining the cohesion of family life while caring for and assisting a mentally disordered family member.

(e) Since the state's mental health resources are limited and are increasingly being directed on a priority basis toward provision of services to persons with serious mental disorders, informed and active families helping one another can effectively extend and amplify the value of state mental health dollars.

(Added by Stats. 1989, Ch. 1225, Sec. 1.)

4241. It is the intent of the Legislature, by this chapter, to support an organized program of self-help in which families exchange information, advice, and emotional support to enable them to maintain and strengthen family life and secure or provide more effective treatment, care, and rehabilitation for mentally disordered family members.

It is further the intent of the Legislature to utilize an existing organized statewide network of families, who have mentally disordered family members, as a means of delivering the services designated in this chapter.

(Added by Stats. 1989, Ch. 1225, Sec. 1.)

4242. As used in this chapter:

(a) "Family" means persons whose children, spouses, siblings, parents, grandparents, or grandchildren have a serious mental disorder.

(b) "Serious mental disorder" means a mental disorder which is severe in degree and pesistent in duration and which may cause behavioral disorder or impair functioning so as to interfere substantially with activities of daily living. Serious mental disorders include schizophrenia, major affective disorders, and other severely disabling mental disorders.

(Added by Stats. 1989, Ch. 1225, Sec. 1.)

4243. (a) All funds appropriated for the purposes of this chapter shall be used to contract with an organization to establish a statewide network of families who have mentally disordered family members for the purpose of providing information, advice, support, and other assistance to these families.

(b) A request for proposal shall be issued seeking applicants who are capable of supplying the services specified in

Section 4244. The respondent organizations shall demonstrate that they:

(1) Focus their activities exclusively on the seriously mentally disordered.

(2) Have experience in successfully working with state agencies, including, but not limited to, the State Department of Mental Health.

(3) Have the ability to reach and involve the target population as active members.

(4) Have proven experience providing structured self-help services that benefit the target population.

(5) Have experience holding statewide and local conferences to educate families and professionals regarding the needs of the mentally disordered.

(6) Have the financial and organizational structure and experience to manage the funds provided under the proposed contract.

(Added by Stats. 1989, Ch. 1225, Sec. 1.)

4244. The Director of Mental Health shall enter into a contract with the successful bidder to provide services which shall include, but not be necessarily limited to, all of the following:

(a) Production and statewide dissemination of information to families regarding methods of obtaining and evaluating services needed by mentally disordered family members.

(b) Provision of timely advice, counseling, and other supportive services to assist families in coping with emotional stress and to enable them to care for or otherwise assist mentally disordered family members.

(c) Organizing family self-help services in local communities, accessible to families throughout the state.

(d) Conducting training programs for mental health practitioners and college and university students to inform current and future mental health professionals of the needs of families and methods of utilizing family resources to assist mentally disordered clients.

(Added by Stats. 1989, Ch. 1225, Sec. 1.)

4245. Contracts entered in pursuant to this chapter shall:

(a) Have an annual contract period from July 1 through June 30 of each fiscal year unless the Director of Mental Health or the contractor terminates the contract earlier.

(b) Require an annual report by the contractor accounting for all expenditures and program accomplishments.

(Added by Stats. 1989, Ch. 1225, Sec. 1.)

CHAPTER 3. OFFICERS AND EMPLOYEES

(Heading of Chapter 3 redesignated from Article 3 by Stats. 1977, Ch. 1252.)

4300. As used in this article, "officers" of a state hospital means:

(a) Clinical director.

(b) Hospital administrator.

(c) Hospital director.

(Repealed and added by Stats. 1976, Ch. 962.)

4301. The Director of Mental Health shall appoint and define the duties, subject to the laws governing civil service, of the clinical director and the hospital administrator for each state hospital. The director shall appoint either the clinical director or the hospital administrator to be the hospital director.

The director shall appoint a program director for each program at a state hospital.

(Amended by Stats. 1977, Ch. 1252.)

4302. The Director of the State Department of Mental Health shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals.

(Amended by Stats. 1977, Ch. 1252.)

4303. Salaries of resident and other officers and wages of employees shall be included in the budget estimates of, and paid in the same manner as other expenses of, the state hospitals.

(Repealed and added by Stats. 1976, Ch. 962.)

4304. The primary purpose of a state hospital is the medical and nursing care of patients who are mentally disordered. The efforts and direction of the officers and employees of each state hospital shall be directed to this end.

(Amended by Stats. 1977, Ch. 1252.)

4305. Subject to the rules and regulations established by the department, and under the supervision of the hospital director when the hospital director is the hospital administrator, the clinical director of each state hospital shall be responsible for the planning, development, direction, management, supervision, and evaluation of all patient services, and of the supervision of research and clinical training.

(Amended by Stats. 1977, Ch. 1252.)

4306. Subject to the rules and regulations established by the department, under the supervision of the hospital director when the hospital director is the clinical director, the hospital administrator shall be responsible for the planning, development,

direction, management and supervision of all administrative and supportive services in the hospital facility. Such services include, but are not limited to:

(1) All administrative functions such as personnel, accounting, budgeting, and patients' accounts.

(2) All life-support functions such as food services, facility maintenance and patient supplies.

(3) All other business and security functions.

It shall be the responsibility of the hospital administrator to provide support services, as specified in this section, within available resources, to all hospital treatment programs.

(Added by Stats. 1976, Ch. 962.)

4307. The hospital director is the chief executive officer of the hospital and is responsible for all hospital operations. If the hospital director is the clinical director, then the hospital administrator is responsible to him; if the hospital director is the hospital administrator, then the clinical director is responsible to him.

(Repealed and added by Stats. 1976, Ch. 962.)

4308. As often as a vacancy occurs in a hospital under the jurisdiction of the Director of Mental Health, he shall appoint, as provided in Section 4301, a clinical director, a hospital administrator, a hospital director, and program directors.

A hospital administrator shall be a college graduate preferably with an advanced degree in hospital, business or public administration and shall have had experience in this area. He shall receive a salary which is competitive with other private and public mental hospital administrators.

A clinical director for a state hospital for the mentally disordered shall be a physician who has passed, or shall pass, an examination for a license to practice medicine in California and shall be a qualified specialist in a branch of medicine that includes diseases affecting the brain and nervous system. The clinical director for any state hospital shall be well qualified by training or experience to have proven skills in mental hospital program administration.

The hospital director shall be either the hospital administrator or the clinical director. He shall be selected based on his overall knowledge of the hospital, its programs, and its relationship to its community, and on his demonstrated abilities to administer a large facility.

The standards for the professional qualifications of a program director shall be established by the Director of Mental Health for each patient program. The director shall not adopt any regulations which prohibit a licensed psychiatrist, psychologist, psychiatric

technician, or clinical social worker from employment in a patient program in any professional, administrative, or technical position; provided, however, that the program director of a medical-surgical unit shall be a licensed physician.

If the program director is not a physician, a physician shall be available to assume responsibility for all those acts of diagnosis, treatment, or prescribing or ordering of drugs which may only be performed by a licensed physician.

(Amended by Stats. 1979, Ch. 373.)

4309. The hospital director is responsible for the overall management of the hospital. In his absence one of the other hospital officers or in the absence of both officers a program director shall be designated to perform his duties and assume his responsibilities.

(Repealed and added by Stats. 1976, Ch. 962.)

4310. At the request of one or more employees of any institution within the department, the department may, at its option, provide, within the grounds of the institution, meals and subsistence for employees who do not reside within the institution, or living facilities, meals and subsistence for employees who reside within the institution. The department may make a reasonable charge for all facilities taken by or furnished to employees, to be determined by the State Board of Control, and to be deducted from the salary of the employee. No employee shall be compelled to eat his meals at the institution, nor shall he be charged for meals or facilities not furnished to or taken by him. No employee shall be discriminated against in any manner whatsoever because he elects to eat his meals outside the institution grounds.

The provisions of this section apply only to those employees who are not officers and who receive gross salaries as specified by the salary scales of the State Personnel Board, and do not apply to those employees who are officers of an institution or who receive a cash salary plus maintenance for self and family as provided by the salary scales of the State Personnel Board.

(Repealed and added by Stats. 1976, Ch. 962.)

4311. The hospital administrator shall be responsible for preserving the peace in the hospital buildings and grounds and may arrest or cause the arrest and appearance before the nearest magistrate for examination, of all persons who attempt to commit or have committed a public offense thereon.

(Repealed and added by Stats. 1976, Ch. 962.)

4312. The hospital director may establish rules and regulations not inconsistent with law or departmental regulations, concerning the care and treatment of patients, research, clinical training, and for the government of the hospital buildings and

grounds. Any person who knowingly or willfully violates such rules and regulations may, upon the order of either of the hospital officers, be ejected from the buildings and premises of the hospital.

(Repealed and added by Stats. 1976, Ch. 962.)

4313. The hospital administrator of each state hospital may designate, in writing, as a police officer, one or more of the bona fide employees of the hospital. The hospital administrator and each such police officer have the powers and authority conferred by law upon peace officers listed in Section 830.38 of the Penal Code. Such police officers shall receive no compensation as such and the additional duties arising therefrom shall become a part of the duties of their regular positions. When and as directed by the hospital administrator, such police officers shall enforce the rules and regulations of the hospital, preserve peace and order on the premises thereof, and protect and preserve the property of the state.

(Amended by Stats. 1989, Ch. 1165, Sec. 49.)

4314. The Director of Mental Health may set aside and designate any space on the grounds of any of the institutions under the jurisdiction of the department that is not needed for other authorized purposes, to enable such institution to establish and maintain therein a store or canteen for the sale to or for the benefit of patients of the institution of candies, cigarettes, sundries and other articles. The stores shall be conducted subject to the rules and regulations of the department and the rental, utility and service charges shall be fixed as will reimburse the institutions for the cost thereof. The stores when conducted under the direction of a hospital administrator shall be operated on a nonprofit basis but any profits derived shall be deposited in the benefit fund of each such institution as set forth in Section 4125.

Before any store is authorized or established, the Director of Mental Health shall first determine that such facilities are not being furnished adequately by private enterprise in the community where it is proposed to locate the store, and may hold public hearings or cause surveys to be made, to determine the same.

The Director of Mental Health may rent such space to private individuals, for the maintenance of a store or canteen at any of the said institutions upon such terms and subject to such regulations as are approved by the Department of General Services, in accordance with the provisions of Section 13109 of the Government Code. The terms imposed shall provide that the rental, utility and service charges to be paid shall be fixed so as to reimburse the institution for the cost thereof and any additional charges required to be paid shall be deposited in the benefit fund of such institution as set forth in Section 4125.

(Amended by Stats. 1977, Ch. 1252.)

4315. Wherever the term "superintendent", "medical superintendent", or "superintendent or medical director" appears, the term shall be deemed to mean clinical director, except in Sections 4110, 4126, 4127, 4129, 7281, and 7289, where the term shall be deemed to mean hospital administrator.

Wherever the term "medical director" appears, the term shall be deemed to mean clinical director.

(Added by Stats. 1976, Ch. 962.)

4316. Subject to rules and regulations adopted by the department, the hospital director may establish a sheltered workshop at a state hospital to provide patients with remunerative work performed in a setting which simulates that of industry and is performed in such a manner as to meet standards of industrial quality. The workshop shall be so operated as to provide the treatment staff with a realistic atmosphere for assessing patients' capabilities in work settings, and to provide opportunities to strengthen and expand patient interests and aptitudes.

(Added by Stats. 1976, Ch. 962.)

4317. At each state hospital at which there is established a sheltered workshop, there shall be a sheltered workshop fund administered by the clinical director. The fund shall be used for the purchase of materials, for the purchase or rental of equipment needed in the manufacturing, fabricating, or assembly of products, for the payment of remuneration to patients engaged in work at the workshop, and for the payment of such other costs of the operation of the workshop as may be directed by the medical director. The clinical director may cause the raw materials, goods in process, finished products, and equipment necessary for the production thereof to be insured against any and all risks of loss, subject to the approval of the Department of General Services. The costs of such insurance shall be paid from the sheltered workshop fund.

All money received from the manufacture, fabrication, assembly, or distribution of products at any state hospital sheltered workshop shall be deposited and credited to the hospital's sheltered workshop fund.

(Added by Stats. 1976, Ch. 962.)

4318. Each state hospital shall, prior to the discharge of any patient who was placed in the facility under a county Short-Doyle plan, prepare a written recommended aftercare plan which shall be transmitted to the local director of mental health services in the county of the patient's placement.

Notwithstanding any other provision of law, such aftercare plan shall specify the following:

(a) Diagnoses;

(b) Treatment initiated;

(c) Medications and their dosage schedules;
(d) Date of discharge;
(e) Location of community placement;
(f) Plan for continuing treatment; and
(g) List of referrals indicated, including, but not limited to:
(1) Public social services.
(2) Legal aid.
(3) Educational services.
(4) Vocational services.
(5) Medical treatment other than mental health services.
(Repealed and added by Stats. 1976, Ch. 962.)

4319. To assure a continuous level of competency for all state hospital treatment personnel under the jurisdiction of the State Department of Mental Health, the department shall provide adequate in-service training programs for such state hospital treatment personnel.
(Added by renumbering Section 4315 (as added by Stats. 1977, Ch. 72) by Stats. 1978, Ch. 429.)

4320. To assure an adequate supply of licensed psychiatric technicians for state hospitals for the mentally disordered, the State Department of Mental Health, to the extent necessary, shall establish in state hospitals for the mentally disordered a course of study and training equivalent, as determined by the Board of Vocational Nurse and Psychiatric Technician Examiners, to the minimum requirements of an accredited program for psychiatric technicians in the state. No unlicensed psychiatric technician trainee shall be permitted to perform the duties of a licensed psychiatric technician as provided by Section 4502 of the Business and Professions Code unless such trainee performs such duties pursuant to a plan of supervision approved by the Board of Vocational Nurse and Psychiatric Technician Examiners as part of the equivalency trainee program. This section shall not be construed to reduce the effort presently expended by the community college system or private colleges in training psychiatric technicians.
(Added by renumbering Section 4316 (as added by Stats. 1977, Ch. 72) by Stats. 1978, Ch. 429.)

CHAPTER 4. COUNTY USE OF STATE HOSPITALS

(Chapter 4 added by Stats. 1991, Ch. 89, Sec. 50. Effective June 30, 1991.
Note: Subject matter of the Chapter 4 added by Stats. 1984, Ch. 1658, was relocated by Stats. 1992, Ch. 1374, in Part 3, Chapter 7, comm. with Section 4362.)

4330. The State Department of Mental Health shall be reimbursed for use of state hospital beds by counties pursuant to Part 1 (commencing with Section 5000) of Division 5 as follows:

(a) (1) For the 1991-92 fiscal year, the department shall receive reimbursement in accordance with subdivision (b) of Section 17601. This total may be adjusted to reflect any and all amounts previously unallocated or held in reserve for use by small counties and any adjustments made pursuant to Chapter 1341 of the Statutes of 1990.

(2) It is the intent of the Legislature to encourage and allow greater flexibility with respect to resources during the first transitional year, and, to this end, the Director of Mental Health may implement proposals for purchase in or purchase out of, state hospital beds which were proposed in accordance with Chapter 1341 of the Statutes of 1990.

(3) Funds and bed days historically allocated to small counties shall be allocated to counties with no allocation.

(b) Commencing with the 1992-93 fiscal year and each fiscal year thereafter, the department shall be reimbursed in accordance with the contracts entered into pursuant to Section 4331.

(c) The rate of reimbursement which shall apply each fiscal year shall be determined by the department and shall include all actual costs determined by hospital and by type of service provided. Any costs resulting from overexpenditure in the previous year shall be clearly separated from actual costs projected for the contract year and identified as a part of the rate negotiation. Costs shall not include costs incurred for capital outlay relating to existing facilities or capacity, which shall remain the responsibility of the state. Costs for capital outlay related to future expansions or construction of new facilities requested by any county or cost related to innovative arrangements under Section 4355 shall be a cost to the county unless the expansion, construction or innovative arrangements are determined to be of statewide benefit. Pursuant to Section 11343 of the Government Code, the rate of reimbursement shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) After final determination of state hospital costs for patients covered under Part 1 (commencing with Section 5000) of Division 5, funds that remain unencumbered at the close of the fiscal year shall be made available to counties that used fewer state hospital beds than their contracted number, proportional to the contracted amount not used, but this amount shall not exceed the value of the unused contracted amount. These funds shall be used for mental health purposes.

(Amended (as amended by Stats. 1991, Ch. 611) by Stats. 1992, Ch. 1374, Sec. 7. Effective October 28, 1992.)

4331. (a) No later than July 1, 1992, and in each

subsequent year, each county acting singly or in combination with other counties shall contract with the department for the number and types of state hospital beds that the department will make available to the county or counties during the fiscal year. Each county contract shall be subject to the provisions of this chapter, as well as other applicable provisions of law, but shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the State Administrative Manual, or the Public Contract Code and shall not be subject to review and approval by the Department of General Services.

(b) (1) No later than January 1, 1992, each county acting singly or in combination with other counties, shall notify the department in writing as to the number and type of state hospital beds the county or counties will contract for with the state in the 1992-93 fiscal year.

(2) No later than July 1, 1992, and no later than July 1 of each subsequent year, each county acting singly or in combination with other counties shall give the department preliminary written notification of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year. Counties may include in their notification a request for additional beds beyond their previous year's contract.

(3) No later than January 1, 1993, and no later than January 1 of each subsequent year, each county acting singly or in combination with other counties shall give the department final written notifications of the number and types of state hospital beds that the county or counties will contract for with the state during the subsequent fiscal year. These notifications shall not preclude subsequent changes agreed to by both the state and the county in the contract negotiation process.

(4) The department shall provide counties with preliminary cost and utilization information based on the best data possible, 60 days in advance of the preliminary notification deadline, and a proposed final cost estimate, based on the best data possible, 60 days in advance of the final deadline. Final rates shall be subject to contract agreement.

(c) There shall be no increase in the number of beds provided to a county or group of counties during a fiscal year unless the contract between the department and that county or group of counties is amended by mutual agreement. Any significant change in services requested by a county shall require amendment of the contract.

(d) If a county or group of counties has not contracted with the department by July 1 of any given year, the number of beds to be provided that fiscal year shall be the same as the number provided the previous fiscal year, unless the department and a county have formally agreed otherwise, and the rate of reimbursement that shall be paid to the department shall be at the amount set by the department

for the fiscal year commencing July 1 of that year. The department shall provide a mechanism for formal agreement of bed levels no later than June 15 of each year. However, after July 1 the department and a county or group of counties may enter into a contract pursuant to this chapter and the contract shall govern the number of state hospital beds and rates of reimbursement for the fiscal year commencing July 1 of that year.

(Amended (as amended by Stats. 1991, Ch. 611) by Stats. 1992, Ch. 1374, Sec. 8. Effective October 28, 1992.)

4332. (a) Contracts entered into pursuant to Section 4331 shall do all of the following:

(1) Specify the number of beds to be provided.

(2) Specify the rate or rates of reimbursement.

(3) Set forth the specific type of services requested by the county, in detail.

(4) Specify procedures for admission and discharge.

(5) Include any other pertinent terms as agreed to by the department and the county.

(b) The department shall consult, in advance, with the counties regarding any changes in state hospital facilities or operations which would significantly impact access to care or quality of care, or significantly increase costs.

(c) Beginning with the 1992-93 fiscal year and annually thereafter, the department shall make available to counties upon request the basis upon which its rates have been set, including any indirect cost allocation formulas.

(Amended by Stats. 1991, Ch. 611, Sec. 26. Effective October 7, 1991.)

4333. (a) In the event a county or counties elect to reduce their state hospital resources, beginning July 1, 1992, systemwide state hospital net bed reduction in any one year may not exceed 10 percent of the total for patients under Part 1 (commencing with Section 5000) of Division 5 in the prior year without the specific approval of the Director of Mental Health.

(b) Net bed reductions at any one hospital may not exceed 10 percent of its contracted beds without specific approval of the Director of Mental Health.

(c) If the proposed reduction in any year exceeds the maximum permitted amount, the department, with the assistance of counties, shall make every effort to contract for beds with other purchasers.

(d) If total county requests for bed reduction in any one year or at any one facility still exceed the amount of reduction allowed, each county's share of the reduction shall be determined by taking the ratio of its contracted beds to the total contracted and multiplying this by the total beds permitted to be reduced.

(e) (1) Small counties shall be exempted from the limitations of this section and shall have the amount of their reduction determined by the Director of Mental Health.

(2) For purposes of this chapter, "small counties" means counties with a population of 125,000 or less based on the most recent available estimates of population data determined by the Population Research Unit of the Department of Finance.

(f) It is the intent of the Legislature that counties have maximum flexibility in planning the use of these resources, which includes making full use of existing facilities and that the Director of Mental Health enforce his or her exemption authority in a manner consistent with this intent. Because freed-up beds may be purchased by other counties or may be used for other purposes, it is anticipated that individual county flexibility will be substantially greater than the 10-percent figure described in subdivisions (a) and (b).

(g) Counties may annually contract for state hospital beds as single entities or in combination with other counties. For purposes of this section, small counties, as defined in subdivision (e):

(1) Are encouraged to establish regional authorities to pool their resources to assure their ability to provide the necessary array of services to their mentally ill populations not otherwise available to them on an individual basis.

(2) May receive loans from the General Fund when emergency state hospital beds are needed, not to exceed one year in duration, with interest payable at the same rate as that earned through the Pooled Money Investment Fund. Any interest due may be waived based upon a finding of emergency by the Secretary of Health and Welfare and the Director of Finance.

(Amended (as amended by Stats. 1991, Ch. 611) by Stats. 1992, Ch. 713, Sec. 32. Effective September 15, 1992.)

4333.5. (a) The department shall encourage the counties to use state hospital facilities, in addition to utilizing state hospital beds pursuant to contract, for additional treatment programs through contracts, on either an individual county or regional basis.

(b) For purposes of contracts entered into through encouragement provided by the department pursuant to subdivision (a), costs shall be based on the actual costs to the state, and shall be prorated on an annual lease basis.

(Added by Stats. 1992, Ch. 1374, Sec. 9. Effective October 28, 1992.)

4334. By July 1, 1992, the State Department of Mental Health, in collaboration with counties, shall do all of the following:

(a) Prepare and publish a catalogue of available state hospital services. The catalogue shall be updated annually.

(b) Develop a process by which a county or group of

counties constituting the primary user of a particular hospital may, upon their request individually, or through selected representatives, participate in long-range planning and program development to ensure the provision of appropriate services.

(c) Ensure direct county involvement in admission to, and discharge from, beds contracted for patients under Part 1 (commencing with Section 5000) of Division 5.

(Added by Stats. 1991, Ch. 89, Sec. 50. Effective June 30, 1991.)

4335. Nothing in this chapter is intended to prevent the department from entering into innovative arrangements with counties for delivery of state hospital services. The Director of Mental Health may contract with a county, or group of counties, for excess state hospital space for purposes of staffing and operating their own program.

(Added by Stats. 1991, Ch. 89, Sec. 50. Effective June 30, 1991.)

PART 3. DEPARTMENTAL PROGRAM INITIATIVES

(Part 3 added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991.)

CHAPTER 1. SELF-HELP PROGRAMS

(Chapter 1 added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991.)

4340. The State Department of Mental Health shall maintain a statewide mental health prevention program directed toward a reduction in the need for utilization of the treatment system and the development and strengthening of community support and self-help networks.

(Added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991.)

CHAPTER 2. HUMAN RESOURCE DEVELOPMENT

(Chapter 2 added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991.)

4341. (a) In order to ensure the availability of an adequate number of persons from all disciplines necessary to implement

appropriate and effective services to severely mentally ill persons of all ages and ethnic groups, the department shall, to the extent resources are available, implement a Human Resources Development Program.

(b) Implementation of the program shall include negotiation with any or all of the following: the University of California, state colleges, community colleges, private universities and colleges, public and private hospitals, and public and private rehabilitation, community care, treatment providers, and professional associations, to arrange affiliations and contracts for educational and training programs to ensure appropriate numbers of graduates with experience in serving severely mentally ill persons in the most cost-effective programs.

(c) The human resources development effort shall be undertaken with active participation of the California Conference of Local Mental Health Directors, client and family representatives, and professional and academic institutions.

(d) The program shall give particular attention to areas of specific expertise where local programs and state hospitals have difficulty recruiting qualified staff, including programs for forensic persistently severely mentally ill children and youth, and severely mentally ill elderly persons. Specific attention shall be given to ensuring the development of a mental health work force with the necessary bilingual and bicultural skills to deliver effective service to the diverse population of the state.

(Amended by Stats. 1991, Ch. 611, Sec. 28. Effective October 7, 1991.)

4341.5. In order to ensure an adequate number of qualified psychiatrists and psychologists with forensic skills, the State Department of Mental Health shall, to the extent resources are available, plan with the University of California, private universities, and the California Postsecondary Education Commission, for the development of programs for the training of psychiatrists and psychologists with forensic skills, and recommend appropriate incentive measures, such as state scholarships.

(Added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991.)

CHAPTER 4. PRIMARY INTERVENTION PROGRAM

(Heading of Chapter 4 amended by Stats. 1991, Ch. 858, Sec. 1. Effective October 14, 1991.)

4343. The Legislature recognizes that prevention and early intervention services have long been slighted in the community mental health programs and has identified, as a goal of the

Bronzan-McCorquodale program, the prevention of serious mental disorders and psychological problems. It is the intent of the Legislature to establish throughout the state a school-based primary intervention program designed for the early detection and prevention of emotional, behavioral, and learning problems in primary grade children with services provided by child aides or unpaid volunteers under the supervision of mental health professionals. The Legislature recognizes the documented significant improvement of children who have participated in the program over time. The goal of the primary intervention program is to help young children derive maximum profit from the school experience and, in so doing, prevent later-life problems of school failure, unemployment, delinquency, criminal behavior, and substance abuse.

(Amended by Stats. 1991, Ch. 858, Sec. 2. Effective October 14, 1991.)

4344. Primary intervention programs shall be developed in accordance with the guidelines and principles set forth in this chapter. To this end, school districts, publicly funded preschool programs, and local mental health programs may implement primary intervention programs with available funds, or may jointly apply to the State Department of Mental Health to be considered for grant programs outlined in this chapter.

(Amended by Stats. 1991, Ch. 858, Sec. 3. Effective October 14, 1991.)

4345. The Director of Mental Health shall develop guidelines for primary intervention programs in accordance with the following:

(a) School-based programs shall serve children in grades kindergarten through three.

(b) The programs may serve children beyond grade three who could benefit from the program but the number of children accepted into the program from grades four and above shall not represent more than 15 percent of the total number of children served.

(c) The programs may serve children enrolled in a publicly funded preschool program.

(d) The programs shall serve children referred by either a screening process, a teacher, school-based mental health professionals, other school personnel who have had opportunities to observe children in interpersonal contacts, or parents. If a screening process is utilized, behavior rating scales shall constitute the primary instrument from which referrals to primary intervention programs are made. To a more limited extent, observations of children working on structured tasks and standardized projective tests may also be used.

(e) The programs may include a parent involvement component.

(f) Before acceptance of a child into a primary intervention program, parental consent is required.

(Amended by Stats. 1991, Ch. 858, Sec. 4. Effective October 14, 1991.)

4346. (a) Each primary intervention program shall have a core team consisting of school-based mental health professionals, including credentialed school psychologists, school counselors, school social workers, or local mental health program professionals, or a combination thereof, and child aides.

(b) The school-based mental health professionals shall be responsible for accepting referred children into the program, supervision of the child aides, assignment of a child to an aide, evaluation of progress, and determination of termination from the program. The mental health professionals shall supervise the scoring and interpretation of screening and assessment test data, conduct conferences with parents, and evaluate the effectiveness of individual aides.

(c) Child aides, under supervision of the school-based mental health professional, shall conduct weekly play sessions with children served in the primary intervention programs. Child aides may be salaried school aides, unpaid volunteers or other persons with time and interest in working with young children, and who may be provided stipends to meet expenses.

(d) All aides shall undergo a time-limited period of training that is focused on the main intervention strategies of the particular program and is provided prior to direct contacts with the children served in the primary intervention programs. Training shall, at a minimum, include basic child development, crisis intervention, techniques of nondirective play, other intervention skills appropriate to identified problem areas, and instruction in utilizing supervision and consultation.

(Amended by Stats. 1992, Ch. 722, Sec. 18. Effective September 15, 1992.)

4347. School districts or publicly funded preschools receiving funds under this chapter shall demonstrate a capability for referral to appropriate public and private community services. The referrals shall be made through contacts with families in response to information regarding the need for referral arising from the child aide sessions.

(Amended by Stats. 1991, Ch. 858, Sec. 6. Effective October 14, 1991.)

4348. (a) (1) Subject to the availability of funding each year, the State Department of Mental Health shall award primary intervention program grants pursuant to a request for proposal consistent with the provisions of this chapter.

(2) In counties over 100,000 in population, each application shall be the product of a proposal developed jointly between the local mental health program and a school district or publicly funded preschool. The grant award shall be administered by the local mental health program.

(3) In counties 100,000 in population and under, an application may be submitted pursuant to paragraph (2) or by the county superintendent of schools on behalf of one or more school districts, or by a school district. If an application is submitted by the county superintendent of schools or by a school district, the county office of education or the school district shall administer the grant and the application shall include evidence satisfactory to the department that adequate mental health training and consultation will be provided at each program site.

(b) Prior to dissemination of a request for proposal, the department shall establish a maximum figure for the amount of program funds available per project site and for the number of sites that may be funded per school district or regional area. The department shall be guided in its decisions by the availability of uncommitted funds designated for the primary intervention program.

(c) Primary intervention program grants shall be funded from funds appropriated for programs pursuant to Part 4 (commencing with Section 4370) and shall receive first priority for these funds.

(d) Upon approving a primary intervention grant, the State Department of Mental Health shall contract with the grant recipient to provide a primary intervention program for a period of up to three years.

(e) Costs of a primary intervention program shall be financed on a basis of:

(1) A maximum of 50 percent from primary intervention program grant funds or a maximum established by the department, whichever is less.

(2) At least 50 percent from a combination of school district or preschool and local mental health program funds.

(f) The school district or preschool share may be in-kind contributions, including staff, space, equipment, materials, and reasonable administrative services.

(1) Contributed space to be used for child aide sessions must be comfortable, attractive, and engaging to young children. Small individual rooms are preferable.

(2) Space to be used for group meetings and consultation sessions may also be contributed.

(3) Equipment and materials may be contributed if they include items that encourage child participation in nondirective play.

(g) The local mental health program share may include either the cost of the mental health professionals as described in subdivision (b) of Section 4346 or the contribution of professional staff to provide case consultation to the child aides and assistance

in child aide training.

(Amended by Stats. 1992, Ch. 722, Sec. 19. Effective September 15, 1992.)

4349. The State Department of Mental Health shall, on the basis of applications submitted pursuant to a request for proposal, select recipients of primary intervention program grants based on the following criteria:

(a) Availability of professional and other program staff with related experience and interest in early intervention.

(b) Reasonable evidence of future stability of the program and its personnel.

(c) Representation of a wide range of economic, ethnic, and cultural populations.

(d) Demonstration of strong support by the teaching, pupil services, and administrative personnel at the school or preschool and by the local mental health program.

(e) Assurance that grants would supplement existing local resources.

(Amended by Stats. 1991, Ch. 858, Sec. 8. Effective October 14, 1991.)

4349.5. Grants that have been awarded prior to the effective date of this section shall continue to be subject to the provisions of this chapter, including the grant recipient, matching, and eligibility requirements.

(Added by Stats. 1992, Ch. 722, Sec. 20. Effective September 15, 1992.)

4349.7. Proposals submitted to the department between April 1, 1992, and May 1, 1992, pursuant to Sections 4343 to 4350, inclusive, that received a passing score shall be funded pursuant to Part 4 (commencing with Section 4370). Those grants shall continue to be subject to this chapter, including the matching and eligibility requirements.

(Added by Stats. 1992, Ch. 722, Sec. 21. Effective September 15, 1992.)

4350. (a) The role of the school district or preschool in each approved primary intervention program shall be to do all of the following:

(1) Arrange for mental health professionals based at the program site to supervise program staff and procedures. These persons may be either pupil personnel staff or local mental health program staff.

(2) Recruit and train child aides.

(3) Screen and assess children in accordance with guidelines established by the department.

(4) Provide individual and group play sessions to selected children in accordance with guidelines established by the department.

(5) Provide space and equipment for child aide sessions with children and for staff meetings.

(6) Establish and maintain program records.

(7) Prepare program reports in accordance with guidelines established by the department.

(8) Submit periodic statements of program grant fund expenditures to the local mental health program for reimbursement in accordance with the approved program budget.

(b) The role of the local mental health program in each approved jointly proposed primary intervention program shall be to:

(1) Administer state program grant funds awarded by the department by contracting with the school district or preschool to provide a primary intervention program in accordance with this chapter and the joint proposal of the local mental health program and the school district or preschool as approved by the department.

(2) Contribute professional staff to the program to do both of the following:

(A) Assist the school district or preschool in the recruiting and initial training of child aides.

(B) Provide ongoing case consultation and training to the child aides at regular intervals at the program site.

(3) Ensure access to appropriate mental health treatment services available within the county's program for those children in the program and their families who require services that are beyond the scope and purposes of the primary intervention program.

(c) The role of the State Department of Mental Health in each approved primary intervention program shall be to:

(1) (A) Develop a contract with the local mental health program for provision of a primary intervention program in accordance with this chapter and the joint proposal of the local mental health program and school district or preschool as approved by the department.

(B) Develop contracts with the county superintendent of schools or a school district for provision of a primary intervention program in accordance with this chapter and the proposal submitted by the county superintendent of schools or a school district pursuant to paragraph (3) of subdivision (a) of Section 4348.

(2) Develop contracts with school districts or local mental health programs to permit the establishment of technical assistance centers to support in the timely and effective implementation of the primary intervention programs. Technical assistance centers shall be in districts which have successfully implemented programs over a period of time.

(3) Disburse program grant funds to the local mental health program or county superintendent of schools or school district in accordance with terms of the contract.

(4) Conduct visits to each program site at least once during the first year of funding, and thereafter as necessary, in order to determine compliance with this chapter and the contract and to determine training needs of program staff.

(5) Provide for periodic training workshops for program staff.

(6) Establish guidelines for program procedures, screening and assessment of children, records, and reports.

(Amended by Stats. 1991, Ch. 858, Sec. 9. Effective October 14, 1991.)

4350.5. (a) School districts or county superintendents of schools proposing to serve as grant recipients pursuant to paragraph (3) of subdivision (a) of Section 4348 shall perform the functions described in subdivision (a) of Section 4350.

(b) The county office of education or school district subject to subdivision (a) shall ensure the provision of adequate initial and ongoing case consultation and training for child aides at regular intervals at each program site from qualified mental health professionals.

(Added by Stats. 1991, Ch. 858, Sec. 10. Effective October 14, 1991.)

4351. The department shall provide for training of program personnel. Funds for this purpose may be appropriated under Section 11489 of the Health and Safety Code, through other special funds, or through the state budget. Training of program personnel may be contracted out to programs designated by the State Department of Mental Health appropriate to provide these services.

(Amended by Stats. 1991, Ch. 858, Sec. 11. Effective October 14, 1991.)

4352. (a) The State Department of Mental Health shall conduct a review of each primary intervention program at least once during the first year of funding, and thereafter as necessary.

(b) The purposes of the reviews are program improvement and compliance with the guidelines set forth in this chapter. The review procedure shall be adequately flexible for application to primary intervention programs of varying sizes and models.

(c) The State Department of Mental Health may contract for the conducting of reviews with programs appropriate for providing these services. Funds may be appropriated for this purpose pursuant to Section 11489 of the Health and Safety Code, from other special funds, or through the annual Budget Act.

(Amended by Stats. 1991, Ch. 858, Sec. 12. Effective October 14, 1991.)

4352.5. Up to 10 percent of the total state funds available annually for the primary intervention program from all

sources may be utilized by the department for administration, training, consultation, and evaluation.

(Added by Stats. 1991, Ch. 858, Sec. 13. Effective October 14, 1991.)

CHAPTER 5. PERSONS WITH ACQUIRED TRAUMATIC BRAIN INJURY

(Chapter 5 added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991. Repealed as of January 1, 1997, pursuant to Section 4359.)

4353. The Legislature finds and declares all of the following:

(a) There is a large population of persons who have suffered traumatic head injuries resulting in significant functional impairment.

(b) Approximately 80 percent of these injuries have occurred as a direct result of motor vehicle accidents.

(c) There is a lack of awareness of the problems associated with head injury resulting in a significant lack of services for persons with head injuries, including, but not limited to, in-home and out-of-home services, respite care, placement programs, counseling, cognitive rehabilitation, transitional living, and vocational rehabilitation services.

(d) Although there are currently a number of different programs attempting to meet the needs of the persons with head injuries, there is no clearly defined ultimate responsibility vested in any single state agency. Nothing in this section shall be construed to mandate services for persons with acquired traumatic injury through county and city programs.

(e) There is no programmatic coordination among agencies to facilitate the provision of a continuing range of services appropriate for persons with traumatic head injuries.

(f) There is a serious gap in postacute care services resulting in incomplete recovery of functional potential.

(g) Due to the problems referred to in this section, the state is not adequately meeting the needs of persons with head injuries enabling them to return to work and to lead productive lives.

(Amended by Stats. 1991, Ch. 611, Sec. 30. Effective October 7, 1991. Repealed as of January 1, 1997, pursuant to Section 4359.)

4354. For purposes of this chapter, the following definitions shall apply:

(a) "Acquired traumatic brain injury" is an injury that is sustained after birth from an external force to the brain or any of

its parts, resulting in psychological, neurological, or anatomical changes in brain functions.

(b) "Department" means the State Department of Mental Health.

(c) "Director" means the Director of Mental Health.

(d) "Supported employment" means an alternative method of providing services which may include prevocational and educational services to individuals who may not qualify for vocational rehabilitation. The following four characteristics distinguish "supported employment" from both vocational rehabilitation services and traditional methods of providing day activity services:

(1) Service recipients appear to lack the potential for unassisted competitive employment.

(2) Ongoing training, supervision, and support services must be provided.

(3) The opportunity is designed to provide the same benefits that other persons receive from work, including an adequate income level, quality of working life, security, and mobility.

(4) There is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

(e) "Day treatment services" means a goal oriented program of developmental and therapeutic services designed to develop, maintain, increase, or maximize an individual's independent functioning in self-care, physical, cognitive, behavioral, or emotional growth, socialization, communication, education, and prevocational skills.

(f) "Fund" means the Traumatic Brain Injury Fund.

(g) "Structured living arrangement" means a residential setting where there is supervision, support, and training designed to maximize independence.

(h) "Functional assessment" means measuring the level or degree of independence, amount of assistance required, and speed and safety considerations for a variety of categories, including activities of daily living, mobility, communication skills, psychosocial adjustment, and cognitive function.

(Added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991. Repealed as of January 1, 1997, pursuant to Section 4359.)

4355. The department shall establish demonstration projects for a postacute continuum-of-care model for adults 18 years of age or older with an acquired traumatic brain injury. The projects shall coordinate supported employment services, day treatment services, and a structured living arrangement. The purpose of the projects is to demonstrate the effectiveness of a coordinated service approach which furthers the goal of assisting those persons to attain

productive, independent lives which may include paid employment.

(Added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991. Repealed as of January 1, 1997, pursuant to Section 4359.)

4356. (a) The department shall award and administer a maximum of four demonstration projects. Priority shall be given to applicants which have proven experience in providing services to persons with an acquired traumatic brain injury or providing supported employment services to persons with special needs. There shall be at least one demonstration project located in the north half of the state and one in the south half of the state. The department shall award project grants no later than six months after funds for this purpose have been appropriated, using a competitive bidding process. No application shall be considered by the department unless the applicant sets forth in the application the means by which data will be collected for purposes of evaluation pursuant to subdivision (b). All projects shall be operational within two months following the grant award.

(b) The department shall also develop an evaluation and data collection system prior to the initial operative date of the project pursuant to subdivision (a), to assess the effectiveness of these coordinated service models. The department shall report to the Legislature on the progress of the demonstration projects by November 30 of each year in which the projects are operational.

The evaluation shall assess the effectiveness of the pilot projects by doing all of the following:

(1) Comparing the number of persons who achieved supported employment placement, as described in subdivision (d) of Section 5564.1, with the number who would have achieved placement without the assistance of a pilot project. The program shall have as a goal an increase of 30 percent in numbers of persons employed as a result of the program.

(2) Comparing the number of persons who achieved employment compared with the number who would have achieved employment without the assistance of a pilot project. The program shall have as a goal an increase of 30 percent in numbers of persons employed as a result of the program.

(3) Conducting any other evaluative investigation which interested parties, as described in subdivision (c), determine to be appropriate. The program shall have as a goal an increase of 30 percent in the numbers of persons with significant improvement as measured by standard and objective functional assessment independence measures.

(4) The comparisons shall be analyzed to determine if provision of services had a statistically significant impact on rates of employment or supported employment, or on any other objective which interested parties, as described in subdivision (c), direct the department to measure.

(c) The department shall consult with interested parties to assist with the implementation of this chapter, and specifically with the development of criteria for selection of the projects and development of an evaluation and data collection system. Interested parties shall include, but not be limited to, all of the following:

(1) The California Association of Rehabilitation Facilities.

(2) The California Association for Adult Day Services.

(3) The Southern California Head Injury Foundation.

(4) The Northern California Head Injury Association.

(5) The Coalition of Independent Living Centers.

(d) The term "supported employment placement" as used in paragraph (1) of subdivision (b) means an alternative method of providing services which may include prevocational and educational services to individuals who may not qualify for vocational rehabilitation. The following four characteristics distinguish supported employment from both vocational rehabilitation services and traditional methods of providing day activity services:

(1) Service recipients appear to lack the potential for unassisted competitive employment.

(2) Ongoing training, supervision, and support services must be provided.

(3) The opportunity is designed to provide the same benefits that other persons receive from work, including an adequate income level, quality of working life, security, and mobility.

(4) There is flexibility in the provision of support which is necessary to enable the person to function effectively at the worksite.

(e) The department shall take all steps necessary to maximize the availability of federal funding for this program, including, but not limited to, funds available under the federal Rehabilitation Act of 1973, as amended. To the extent necessary in order to maximize funding for the demonstration projects and clients served, the department may enter into an interagency agreement with any state department it deems necessary in order to achieve this goal, including, but not limited to, the State Department of Rehabilitation.

(Amended by Stats. 1992, Ch. 1374, Sec. 12. Effective October 28, 1992. Repealed as of January 1, 1997, pursuant to Section 4359.)

4357. (a) The projects shall be able to identify the special care needs and behavioral problems of clients and the services shall be designed to meet those needs.

(b) The projects shall match not less than 20 percent of the amount granted. The required match may be cash or in-kind contributions, or a combination of both. In-kind contributions may include, but shall not be limited to, staff and volunteer services.

(c) The projects shall provide at least 51 percent of their

services under the grant to individuals who are Medi-Cal eligible or who have no other identified third-party funding source.

(d) The projects shall provide, directly, or by arrangement, a coordinated service model to include all of the following:

(1) Structured living arrangement.

(2) Day treatment services.

(3) Supported employment services.

(e) The projects shall develop and utilize a model which will allow clients to move from intensive day treatment programming or highly structured living arrangements to increased levels of independence or supported employment placement.

(f) The projects shall seek all third-party reimbursements for which clients are eligible. However, grantees may utilize grant dollars for the purchase of nonreimbursed services.

(Added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991. Repealed as of January 1, 1997, pursuant to Section 4359.)

4358. There is hereby created in the State Treasury the Traumatic Brain Injury Fund, the moneys in which may, upon appropriation by the Legislature, be expended for the purposes of this chapter.

(Added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991. Repealed as of January 1, 1997, pursuant to Section 4359.)

4359. This chapter shall remain in effect until January 1, 1997, and as of that date is repealed, unless a later enacted statute enacted prior to that date extends or deletes that date.

(Amended by Stats. 1992, Ch. 508, Sec. 2. Effective January 1, 1993. Repealed as of January 1, 1997, by its own provisions.)

CHAPTER 6. CONDITIONAL RELEASE PROGRAM

(Chapter 6 added by Stats. 1991, Ch. 89, Sec. 51. Effective June 30, 1991.)

4360. (a) The department shall provide mental health treatment and supervision in the community for judicially committed persons. The program established and administered by the department under this chapter to provide these services shall be known as the Forensic Conditional Release Program and may be used by the department in accordance with this section to provide services in the community to other patient populations for which the department has direct responsibility.

(b) The department may provide directly, or through contract with private providers or counties, for these services,

including administrative and ancillary services related to the provision of direct services. These contracts shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services. Subject to approval by the department, a county or private provider under contract to the department to provide these services may subcontract with private providers for those services.

(Amended by Stats. 1991, Ch. 611, Sec. 32. Effective October 7, 1991.)

CHAPTER 7. COMPREHENSIVE ACT FOR FAMILIES AND CAREGIVERS OF BRAIN-IMPAIRED ADULTS

(Chapter 7 added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.

Note: Formerly, this subject matter was in Part 2, Chapter 4 (Sections 4330 to 4339.6) as added by Stats. 1984, Ch. 1658.)

4362. The Legislature finds all of the following:

(a) That state public policy discriminates against adults with brain damage or degenerative brain disease, such as Alzheimer's disease. This damage or disease is referred to as "brain impairments" in this chapter.

(b) That the Legislature has declared state public policy and accepted responsibility to ensure that persons under the age of 18 years who are developmentally disabled pursuant to Division 4.5 (commencing with Section 4500), receive services necessary to meet their needs, which are often similar to those of persons who suffer from brain impairments.

(c) That persons over the age of 18 who sustain brain impairment have a variety of program and service needs for which there is no clearly defined, ultimate responsibility vested in any single state agency and for which there are currently a number of different programs attempting to meet their needs.

(d) That the lack of clearly defined ultimate responsibility has resulted in severe financial liability and physical and mental strain on brain-impaired persons, their families, and caregivers.

(e) That terminology and nomenclature used to describe brain impairments are varied and confusing, in part because of different medical diagnoses and professional opinions, as well as differences in terminology used by the various funding sources for programs and services. Uniformity is required in order to ensure that appropriate programs and services are available throughout the state to serve these persons.

(f) That the term "brain damage" covers a wide range of organic and neurological disorders, and that these disorders, as identified below, are not necessarily to be construed as mental

illnesses. These disorders include, but are not limited to, all of the following:

(1) Progressive, degenerative, and dementing illnesses, including, but not limited to, presenile and senile dementias, Alzheimer's disease, multiinfarct disease, Pick's disease, and Kreutzfeldt-Jakob's disease.

(2) Degenerative diseases of the central nervous system that can lead to dementia or severe brain impairment, including, but not limited to, epilepsy, multiple sclerosis, Parkinson's disease, amyotrophic lateral sclerosis (ALS), and hereditary diseases such as Huntington's disease.

(3) Permanent damage caused by cerebrovascular accidents more commonly referred to as "strokes," including, but not limited to, cerebral hemorrhage, aneurysm, and embolism.

(4) Posttraumatic, postanoxic, and postinfectious damage caused by incidents, including, but not limited to, coma, accidental skull and closed head injuries, loss of oxygen (anoxia), and infections such as encephalitis, herpes simplex, and tuberculosis.

(5) Permanent brain damage or temporary or progressive dementia as a result of tumors (neoplasm), hydrocephalus, abscesses, seizures, substance toxicity, and other disorders.

(g) That brain damage frequently results in functional impairments that adversely affect personality, behavior, and ability to perform daily activities. These impairments cause dependency on others for care and decisionmaking. The manifestations of brain damage include impairments of memory, cognitive ability, orientation, judgment, emotional response, and social inhibition. Brain damage can strike anyone regardless of age, race, sex, occupation, or economic status.

(h) That Family Survival Project for Brain-Damaged Adults of San Francisco, a three-year pilot project established pursuant to former Chapter 4 (commencing with Section 4330), has demonstrated that the most successful, cost-effective service model is one which allows a nonprofit community agency to provide a full array of support services to families that have a member who suffers from a brain impairment. This agency provides direct services, coordinates existing resources, and assists in the development of new programs and services on a regional basis.

(i) That respite care services provide a combination of time-limited, in-home, and out-of-home services that significantly decrease the stress of family members and increase their ability to maintain a brain-impaired person at home at less cost than other alternatives. This ability is further increased when complemented by case planning, care training, and other support services for family members.

(j) That, since 1977, the State Department of Mental Health has attempted to identify service gaps and determine a cost-effective, feasible approach to funding and providing services to brain-damaged

adults, their families, and caregivers. That department has the experience of offering more in the continuum of programs and services than any other state agency and is willing to continue in the lead state agency capacity.

(k) That providing services to brain-impaired adults, and to their families and caregivers, requires the coordinated services of many state departments and community agencies to ensure that no gaps occur in communication, in the availability of programs, or in the provision of services. Although the services may include mental health interventions, they cannot be met solely by services of the State Department of Mental Health.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4362.5. As used in this chapter:

(a) "Brain damage," "degenerative brain diseases," and "brain impairment" mean significant destruction of brain tissue with resultant loss of brain function. Examples of causes of the impairments are Alzheimer's disease, stroke, traumatic brain injury, and other impairments described in subdivision (f) of Section 4330.

(b) "Brain-impaired adult" means a person whose brain impairment has occurred after the age of 18.

(c) "Respite care" means substitute care or supervision in support of the caregiver for the purposes of providing relief from the stresses of constant care provision and so as to enable the caregiver to pursue a normal routine and responsibilities. Respite care may be provided in the home or in an out-of-home setting, such as day care centers or short-term placements in inpatient facilities.

(d) "Family member" means any relative or court appointed guardian or conservator who is responsible for the care of a brain-impaired adult.

(e) "Caregiver" means any unpaid family member or individual who assumes responsibility for the care of a brain-impaired adult.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4363. The director shall administer this chapter and establish standards and procedures, as the director deems necessary in carrying out the provisions of this chapter. The standards and procedures are not required to be adopted as regulations pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4363.5. The director shall do both of the following:

(a) Contract with a nonprofit community agency meeting the

requirements of this chapter to act as the Statewide Resources Consultant, to be selected through a bid procedure.

(b) With the advice of the Statewide Resources Consultant and within four years from the effective date of this chapter, contract with nonprofit community resource agencies, selected in a manner determined by the director, to establish regionally based resource centers in order to ensure the existence of an array of appropriate programs and services for brain-impaired adults. Each resource center shall place a high priority on utilizing community resources in creating opportunities for families to maintain a brain-impaired adult at home when possible and in other community-based alternatives when necessary.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4364. The Statewide Resources Consultant shall do all of the following:

(a) Serve as the centralized information and technical assistance clearinghouse for brain-impaired adults, their families, caregivers, service professionals and agencies, and volunteer organizations and shall disseminate information, including, but not limited to, the results of research and activities conducted pursuant to its responsibilities set forth in this chapter as determined by the director.

(b) Work closely and coordinate with organizations serving brain-impaired adults, their families, and caregivers in order to ensure, consistent with requirements for quality of services as may be established by the director, that the greatest number of persons are served and that the optimal number of organizations participate.

(c) Develop and conduct training which is appropriate for a variety of persons, including, but not limited to, all of the following:

(1) Families.

(2) Caregivers and service professionals involved with brain-impaired adults.

(3) Advocacy and self-help family and caregiver support organizations.

(4) Educational institutions.

(d) Provide service and program development consultation to resource centers and to identify funding sources which are available.

(e) Assist the appropriate state agencies in identifying and securing increased federal financial participation and third-party reimbursement, including, but not limited to, Title XVIII (42 U.S.C. Sec. 1395 and following) and Title XIX (42 U.S.C. Sec. 1396 and following) of the federal Social Security Act.

(f) Conduct public social policy research based upon the recommendations of the Director of Mental Health.

(g) Assist the director, as the director may require, in

conducting directly, or through contract, research in brain damage epidemiology and data collection, and in developing a uniform terminology and nomenclature.

(h) Assist the director in establishing criteria for, and in selecting resource centers and in designing a methodology for, the consistent assessment of resources and needs within the geographic areas to be serviced by the resource centers.

(i) Conduct conferences, as required by the director, for families, caregivers, service providers, advocacy organizations, educational institutions, business associations, community groups, and the general public, in order to enhance the quality and availability of high-quality, low-cost care and treatment of brain-impaired adults.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4364.5. The Statewide Resources Consultant, pursuant to subdivision (c) of Section 4362.5, shall do the following:

(a) Develop respite care training materials, with consultation by other appropriate organizations including the California Association of Homes for the Aging, and under the direction of the director, for distribution to all resource centers established under this chapter.

(b) Provide the respite care training materials described in subdivision (a) to other appropriate state entities, including the Department of Aging, the State Department of Health Services, and the State Job Training Coordinating Council, for distribution to their respective services and programs.

(c) Pursuant to the requirements of Section 4365.5, report on the utilization of the respite care training materials, developed pursuant to subdivision (a), by all the resource centers for the period ending December 31, 1990, only, and make recommendations for the future use of these materials.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4365. In choosing an appropriate nonprofit community agency to act as the Statewide Resources Consultant, the director shall give priority to an agency which meets both of the following:

(a) An agency that has a proven record of experience in providing information, technical assistance and direct services to adults with all types of brain impairments, their families, and caregivers.

(b) An agency that includes family members and caregivers of brain-impaired adults on its board of directors.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4365.5. (a) The Statewide Resources Consultant shall

submit progress reports on its activities as required by the director. These reports shall include, but not be limited to, a summary and evaluation of the activities of the resource centers. Client, caregiver, service, and cost data shall be provided for each operating resource center.

(b) The department, in consultation with the Statewide Resources Consultant, shall report to the Legislature annually on the effectiveness of the resource centers. The report shall be submitted within six months after the end of each fiscal year. The evaluation shall include, but not be limited to, all of the following:

(1) The costs and amount of each type of service provided.

(2) An assessment of the nature and extent of the demand for services which provide respite, and an evaluation of their success in meeting this demand.

(3) Recommendations for improving the effectiveness of the program in deterring the institutionalization of brain-impaired adults, allowing caregivers to maintain a normal routine and promoting the continuance of quality care for brain-impaired adults.

(4) Recommendations for ensuring that unmet needs of brain-impaired persons and their families are identified and addressed with appropriate programs and services.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4366. Resource centers shall serve all of the following functions:

(a) Provide directly or assist families in securing information, advice, and referral services, legal services and financial consultation, planning and problem-solving consultation, family support services, and respite care services, as specified in Section 4338.

(b) Provide centralized access to information about, and referrals to, local, state, and federal services and programs in order to assure a comprehensive approach for brain-impaired adults, their families, and caregivers. Nothing in this chapter shall prohibit access to services through other organizations which provide similar programs and services to brain-impaired adults and their families, nor shall other organizations be prevented from providing these programs and services.

(c) Assist in the identification and documentation of service needs and the development of necessary programs and services to meet the needs of brain-impaired adults in the geographic area.

(d) Cooperate with the Statewide Resources Consultant and the Director of Mental Health in any activities which they deem necessary for the proper implementation of this chapter.

(e) Work closely and coordinate with organizations serving brain-impaired adults, their families, and caregivers in order to ensure, consistent with requirements for quality of services as may be

established by the director, that the greatest number of persons are served and that the optimal number of organizations participate.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4366.5. (a) Agencies designated as resource centers by the director after consultation with the Statewide Resources Consultant shall include in their governing or advisory boards, or both, as required by the director, persons who are representative of the ethnic and socioeconomic character of the area served and the client groups served in the geographic area.

(b) Criteria to be used in selecting resource centers shall include, but not be limited to, the following:

(1) Fiscal stability and sound financial management, including the capability of successful fundraising.

(2) Ability to obtain community support for designation as a resource center with the region recommended by the director.

(3) Demonstrated ability to carry out the functions specified in Section 4366, particularly in delivering necessary programs and services to brain-impaired adults as defined in subdivision (c) of Section 4362.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4367. Resource centers shall carry out the functions specified in Section 4366 through the administration and provision of programs and services that reflect the most progressive care and treatment alternatives available for brain-impaired adults, their families, and caregivers. These programs and services may be provided directly or through the establishment of subcontracts as specified in their contract and within the limitations imposed by budget appropriations. The department shall make efforts to achieve a goal that not less than 90 percent of the funds appropriated through contracts with resource centers shall be utilized for direct services, including, but not limited to, the following:

(a) Information, advice, and referral and family support services, including, but not limited to, all of the following:

(1) Information and counseling about diagnostic procedures and resources.

(2) Long-term care planning and consultation.

(3) Legal and financial resources, consultation, and representation.

(4) Mental health interventions.

(5) Caregiving techniques.

(b) Respite care services through the flexible and creative use of existing local resources, including, but not limited to, all of the following:

(1) In-home care.

(2) Adult day health and social day care services.

(3) Foster and group care.

(4) Temporary placement in a community or health facility.

(5) Transportation.

(c) Training and education programs for brain-impaired adults, their family members, caregivers, and service providers that will lead to the high-quality, low-cost care and treatment of service clients.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4367.5. The director shall establish criteria for client eligibility, including financial liability, pursuant to Section 4368. However, persons eligible for services provided by regional centers or the State Department of Developmental Services are not eligible for services provided under this chapter. Income shall not be the sole basis for client eligibility. The director shall assume responsibility for the coordination of existing funds and services for brain-impaired adults, and for the purchase of respite care, as defined in subdivision (c) of Section 4362.5, with other departments that may serve brain-impaired adults, including the Department of Rehabilitation, the State Department of Health Services, the State Department of Social Services, the State Department of Developmental Services, the Department of Aging, the Office of Statewide Health Planning and Development, and the State Department of Alcohol and Drug Programs.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4368. Persons receiving services pursuant to this chapter may be required to contribute to the cost of services depending upon their ability to pay, but not to exceed the actual cost thereof. The criteria for determining client contributions which may be paid to the resource center under this chapter and standards for their utilization by the resource center in developing new programs and services shall be determined by the director after consultation with the Statewide Resources Consultant.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

4368.5. In considering total service funds available for the project, the director shall utilize funding available from appropriate state departments, including, but not limited to: the State Department of Health Services, the State Department of Social Services, the Department of Rehabilitation, the Department of Aging, and the State Department of Alcohol and Drug Programs. The director in conjunction with the Statewide Resources Consultant shall coordinate his or her activities with the implementation of the

Torres-Felando Long-Term Care Reform Act (Chapter 1453, Statutes of 1982) in order to further the goal of obtaining comprehensive, coordinated public policy and to maximize the availability of funding for programs and services for persons with brain impairments.

(Added by Stats. 1992, Ch. 1374, Sec. 13. Effective October 28, 1992.)

PART 4. SCHOOL-BASED EARLY MENTAL HEALTH INTERVENTION AND PREVENTION SERVICES FOR CHILDREN ACT

(Part 4 added by Stats. 1991, Ch. 757, Sec. 1. Effective October 9, 1991.)

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

(Chapter 1 added by Stats. 1991, Ch. 757, Sec. 1. Effective October 9, 1991.)

4370. This part shall be known and may be cited as the School-based Early Mental Health Intervention and Prevention Services for Children Act of 1991.

(Added by Stats. 1991, Ch. 757, Sec. 1. Effective October 9, 1991.)

4371. The Legislature finds and declares all of the following:

(a) Each year in California over 65,000 teenagers become adolescent mothers and 230 teenagers commit suicide. Each year more than 20 percent of California's teenagers drop out of high school.

(b) Thirty percent of California's elementary school pupils experience school adjustment problems, many of which are evident the first four years of school, that is, kindergarten and grades 1 to 3, inclusive.

(c) Problems that our children experience, whether in school or at home, that remain undetected and untreated grow and manifest themselves in all areas of their later lives.

(d) There is a clear relationship between early adjustment problems and later adolescent problems, including, but not limited to, poor school attendance, low achievement, delinquency, drug abuse, and high school dropout rates. In many cases, signs of these problems can be detected in the early grades.

(e) It is in California's best interest, both in economic and human terms, to identify and treat the minor difficulties that our children are experiencing before those difficulties become major

barriers to later success. It is far more humane and cost-effective to make a small investment in early mental health intervention and prevention services now and avoid larger costs, including, but not limited to, foster care, group home placement, intensive special education services, mental health treatment, or probation supervised care.

(f) Programs like the Primary Intervention Program and the San Diego Unified Counseling Program for Children have proven very effective in helping children adjust to the school environment and learn more effective coping skills that in turn result in better school achievement, increased attendance, and increased self-esteem.

(g) To create the optimum learning environment for our children, schools, teachers, parents, public and private service providers, and community-based organizations must enter into locally appropriate cooperative agreements to ensure that all pupils will receive the benefits of school-based early mental health intervention and prevention services that are designed to meet their personal, social, and educational needs.

(Amended by Stats. 1992, Ch. 722, Sec. 22. Effective September 15, 1992.)

4372. For the purposes of this part, the following definitions shall apply:

(a) "Cooperating entity" means any federal, state, or local, public or private nonprofit agency providing school-based early mental health intervention and prevention services that agrees to offer services at a schoolsite through a program assisted under this part.

(b) "Eligible pupil" means a pupil who attends a publicly funded elementary school and who is in kindergarten or grades 1 to 3, inclusive.

(c) "Local educational agency" means any school district or county office of education, or state special school.

(d) "Director" means the State Director of Mental Health.

(e) "Supportive service" means a service that will enhance the mental health and social development of children.

(Amended by Stats. 1992, Ch. 722, Sec. 23. Effective September 15, 1992.)

CHAPTER 2. SCHOOL-BASED EARLY MENTAL HEALTH INTERVENTION AND PREVENTION SERVICES MATCHING GRANT PROGRAM

(Chapter 2 added by Stats. 1991, Ch. 757, Sec. 1. Effective October 9, 1991.)

4380. The Legislature authorizes the director, in

consultation with the Secretary of Child Development and Education and the Superintendent of Public Instruction, to award matching grants to local educational agencies to pay the state share of the costs of providing programs that provide school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, as follows:

(a) The director shall award matching grants pursuant to this chapter to local educational agencies throughout the state.

(b) Matching grants awarded under this part shall be awarded for a period of not more than three years and no single schoolsite shall be awarded more than one grant, except for a schoolsite that received a grant prior to July 1, 1992.

(c) The director shall pay to each local educational agency having an application approved pursuant to requirements in this part the state share of the cost of the activities described in the application.

(d) Commencing July 1, 1993, the state share of matching grants shall be a maximum of 50 percent in each of the three years.

(e) Commencing July 1, 1993, the local share of matching grants shall be at least 50 percent, from a combination of school district and cooperating entity funds.

(f) The local share of the matching grant may be in cash or payment in-kind.

(g) Priority shall be given to those applicants that demonstrate the following:

(1) The local educational agency will serve the greatest number of eligible pupils from low-income families.

(2) The local educational agency will provide a strong parental involvement component.

(3) The local educational agency will provide supportive services with one or more cooperating entities.

(4) The local educational agency will provide services at a low cost per child served in the project.

(5) The local educational agency will provide programs and services that are based on adoption or modification, or both, of existing programs that have been shown to be effective. No more than 10 percent of the grants awarded by the director may be utilized for new models.

(6) The local educational agency will provide services to children who are in out-of-home placement or who are at risk of being in out-of-home placement.

(h) Eligible supportive services may include the following:

(1) Individual and group intervention and prevention services.

(2) Parent involvement through conferences or training, or both.

(3) Teacher and staff conferences and training related to meeting project goals.

(4) Referral to outside resources when eligible pupils require additional services.

(5) Use of paraprofessional staff, who are trained and supervised by credentialed school psychologists, school counselors, or school social workers, to meet with pupils on a short-term weekly basis, in a one-on-one setting as in the Primary Intervention Program established pursuant to Chapter 4 (commencing with Section 4343) of Part 3. A minimum of 90 percent of the grants awarded by the director shall include the basic components of the Primary Intervention Program.

(6) Any other service or activity that will improve the mental health of eligible pupils.

Prior to participation by an eligible pupil in either individual or group services, consent of a parent or guardian shall be obtained.

(i) Each local educational agency seeking a grant under this chapter shall submit an application to the director at the time, in a manner, and accompanied by any information the director may reasonably require.

(j) Each matching grant application submitted shall include all of the following:

(1) Documentation of need for the school-based early mental health intervention and prevention services.

(2) A description of the school-based early mental health intervention and prevention services expected to be provided at the schoolsite.

(3) A statement of program goals.

(4) A list of cooperating entities that will participate in the provision of services. A letter from each cooperating entity confirming its participation in the provision of services shall be included with the list. At least one letter shall be from a cooperating entity confirming that it will agree to screen referrals of low-income children the program has determined may be in need of mental health treatment services and that, if the cooperating entity determines that the child is in need of those services and if the cooperating entity determines that according to its priority process the child is eligible to be served by it, the cooperating entity will agree to provide those mental health treatment services.

(5) A detailed budget and budget narrative.

(6) A description of the proposed plan for parent involvement in the program.

(7) A description of the population anticipated to be served, including number of pupils to be served and socioeconomic indicators of sites to receive funds.

(8) A description of the matching funds from a combination of local education agencies and cooperating entities.

(9) A plan describing how the proposed school-based early mental health intervention and prevention services program will be

continued after the matching grant has expired.

(10) Assurance that grants would supplement and not supplant existing local resources provided for early mental health intervention and prevention services.

(11) A description of an evaluation plan that includes quantitative and qualitative measures of school and pupil characteristics, and a comparison of children's adjustment to school.

(k) Matching grants awarded pursuant to this article may be used for salaries of staff responsible for implementing the school-based early mental health intervention and prevention services program, equipment and supplies, training, and insurance.

(l) Salaries of administrative staff and other administrative costs associated with providing services shall be limited to 5 percent of the state share of assistance provided under this section.

(m) No more than 10 percent of each matching grant awarded pursuant to this article may be used for matching grant evaluation.

(n) No more than 6 percent of the moneys allocated to the director pursuant to this chapter may be utilized for program administration and evaluation.

Program administration shall include both state staff and field staff who are familiar with and have successfully implemented school-based early mental health intervention and prevention services. Field staff may be contracted with by local school districts or community mental health programs. Field staff shall provide support in the timely and effective implementation of school-based early mental health intervention and prevention services. Reviews of each project shall be conducted at least once during the first year of funding.

(o) Subject to the approval of the director, at the end of the fiscal year, a school district may apply unexpended funds to the budget for the subsequent funding year.

(p) Contracts for the program and administration, or ancillary services in support of the program, shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual, and from approval by the Department of General Services.

(Amended by Stats. 1992, Ch. 722, first Sec. 24. Effective September 15, 1992.)

4381. No funding shall be made available to any program or facility pursuant to this chapter unless all of the following conditions are met:

(a) The program facility is open to children without regard to any child's religious beliefs or any other factor related to religion.

(b) No religious instruction is included in the program.

(c) The space in which the program is operated is not utilized in any manner to foster religion during the time used for the program.

(Added by Stats. 1991, Ch. 757, Sec. 1. Effective October 9, 1991.)

4383. (a) For the 1991-92 and 1992-93 fiscal years, a local schoolsite may be awarded funding from the director pursuant to this part and from the Superintendent of Public Instruction pursuant to the Healthy Start Support Services for Children Act of 1991 (Chapter 5 (commencing with Section 8800) of Part 6 of the Education Code) if both of the following criteria are met:

(1) The application to the director for funding under this part delineates how the program will coordinate and interface with, and is not duplicative of, the program proposed for funding under the Healthy Start Support Services for Children Act of 1991.

(2) The application to the Superintendent of Public Instruction for funding under the Healthy Start Support Services for Children Act of 1991 delineates how the program will coordinate and interface with, and is not duplicative of, this part.

(b) Up to 20 percent of the schoolsites which receive operational grants from the Healthy Start Support Services for Children program and which apply for grants under this part may receive these grants. The State Department of Mental Health and the State Department of Education shall jointly review the effectiveness of providing both grants to a single schoolsite and make this information available no later than January 1, 1993.

(Added by Stats. 1992, Ch. 23, Sec. 2. Effective April 1, 1992.)

CHAPTER 3. SCHOOL-BASED EARLY MENTAL HEALTH INTERVENTION AND PREVENTION SERVICES MATCHING GRANT PROGRAM EVALUATIONS AND REPORTS

(Chapter 3 added by Stats. 1991, Ch. 757, Sec. 1. Effective October 9, 1991.)

4390. The Legislature finds that an evaluation of program effectiveness is both desirable and necessary and accordingly requires the following:

(a) No later than June 30, 1993, and each year thereafter through the term of the grant award, each local education agency that receives a matching grant under this part shall submit a report to the director that shall include the following:

(1) An evaluation of the effectiveness of the local educational agency in achieving stated goals.

(2) A description of the problems encountered in the design and operation of the school-based early mental health intervention and prevention services program, including, but not limited to, identification of any federal, state, or local regulations that

impeded program implementation.

(3) The number of eligible pupils served by the program.

(4) The number of additional eligible pupils who have not been served.

(5) An evaluation of the impact of the school-based early mental health intervention and prevention services program on the local educational agency and the children completing the program. The program shall be deemed successful if at least 75 percent of the children who complete the program show an improvement in at least one of the four following areas:

(A) Learning behaviors.

(B) Attendance.

(C) School adjustment.

(D) School-related competencies. Improvement shall be compared with comparable children in that school district that do not complete or participate in the program.

(6) An accounting of local budget savings, if any, resulting from the implementation of the school-based early mental health intervention and prevention services program.

(7) A revised plan of how the proposed school-based early mental health intervention and prevention services program will be continued after the state matching grant has expired, including a list of cooperative entities that will assist in providing the necessary funds and services. Beginning in 1993, this shall, to the extent information is provided by the local mental health department, include a description of the availability of federal financial participation under Title XIX of the federal Social Security Act (42 U.S.C. 1396 and following) through a cooperative agreement or contract with the local mental health department. The county office of education may submit the report on the availability of federal financial participation on behalf of the participating local education agencies with the county. In any county in which there is an interagency children's services coordination council established pursuant to Section 18986.10, a report submitted pursuant to this paragraph shall be submitted to the council for its review and approval.

(b) No later than April 30, 1994, the director shall, through grants, contracts, or cooperative agreements with independent organizations, provide for an evaluation of the effectiveness of matching grants awarded under Chapter 2 (commencing with Section 4380). This evaluation shall allow for the comparison of the impact of different models of school-based mental health early intervention and prevention services programs on the local educational agency and on the children participating in the program. That comparison shall be done with comparable schools or school districts that operate without the school-based mental health early intervention and prevention services program.

(c) No later than June 30, 1994, the director shall submit a report to the Governor, the Legislature, and the Secretary of Child

Development and Education summarizing the reports submitted under subdivision (a) and reporting the results of the evaluation described in subdivision (b).

(Amended by Stats. 1992, Ch. 722, first Sec. 25. Effective September 15, 1992.)

DIVISION 4.7. PROTECTION AND ADVOCACY AGENCY

(Division 4.7 added by Stats. 1991, Ch. 534, Sec. 7.)

CHAPTER 1. DEFINITIONS

(Chapter 1 added by Stats. 1991, Ch. 534, Sec. 7.)

4900. (a) The definitions contained in this section shall govern the construction of this division, unless the context requires otherwise.

(b) "Abuse" means any act or failure to act that would constitute abuse as that term is defined in subdivision (g) of Section 15610 of the Welfare and Institutions Code or Section 11165.6 of the Penal Code.

(c) "Developmental disability" means the same as defined in Section 6001(5) of Title 42 of the United States Code.

(d) "Facility" or "program" means any facility or program providing care or treatment to persons with developmental disabilities or persons with mental illness. The term includes any facility licensed under Division 2 (commencing with Section 1200) of the Health and Safety Code and any facility that is unlicensed but is not exempt from licensure. The term also includes public or private schools and other institutions or programs providing education, training, habilitation, therapeutic, or residential services to persons with developmental disabilities or persons with mental illness.

(e) "Neglect" means any act or failure to act that would constitute neglect as that term is defined in subdivision (d) of Section 15610 of the Welfare and Institutions Code or Section 11165.2 of the Penal Code.

(f) "Persons with mental illness" means the same as mentally ill individuals, as defined in Section 10802(3) of Title 42 of the United States Code.

(g) "Probable cause" to believe that an individual has been subject to abuse or neglect exists when the protection and advocacy agency determines that it is objectively reasonable for a person to entertain such a belief, based upon facts that could cause a reasonable person in a like position, drawing when appropriate upon his or her training and experience, to suspect abuse or neglect.

(h) "Protection and advocacy agency" means the private nonprofit corporation designated by the Governor in this state

pursuant to federal law for the protection and advocacy of the rights of the following persons:

(1) Persons with developmental disabilities, as authorized under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended, contained in Chapter 75 (commencing with Section 6000) of Title 42 of the United States Code.

(2) Persons with mental illness, including mentally ill individuals, as authorized under the federal Protection and Advocacy for Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

4901. (a) The protection and advocacy agency, for purposes of this division, shall be a private nonprofit corporation and shall meet all of the requirements of federal law applicable to protection and advocacy systems, including, but not limited to, the requirement that it establish a grievance procedure for clients or prospective clients of the system to ensure that persons with developmental disabilities and persons with mental illness have full access to services of the system.

(b) State officers and employees, in taking any action relating to the protection and advocacy agency, shall meet the requirements of federal law applicable to protection and advocacy systems.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

4902. (a) The protection and advocacy agency, in protecting and advocating the rights of persons who have developmental disabilities and persons with mental illness, pursuant to the federal mandate, may do all of the following:

(1) Investigate any incident of abuse and neglect of persons with developmental disabilities and persons with mental illness if the incident is reported to the protection and advocacy agency or if the protection and advocacy agency determines there is probable cause to believe the incident occurred. This authority shall include reasonable access to the facility and authority to examine all relevant records and interview any facility service recipient, employee, or other person who might have knowledge of the alleged abuse or neglect.

(2) Pursue administrative, legal, and other appropriate remedies or approaches to ensure the protection of the rights of persons with developmental disabilities.

(3) Pursue administrative, legal, and other appropriate remedies or approaches to ensure the protection of the rights of individuals with mental illness who are in facilities providing care and treatment, or who have been discharged from such a facility, with respect to matters that occur within 90 days after discharge.

(4) Provide information and training on, and referral to,

programs and services addressing the needs of persons with developmental disabilities and persons with mental illness, including information and training about individual rights and the services available from the protection and advocacy agency.

(b) The protection and advocacy agency shall, in addition, have reasonable access to facilities or programs in the state which provide care and treatment to persons who have developmental disabilities and persons with mental illness, and access to those persons. The protection and advocacy agency shall have reasonable access to facilities, programs, and services, and recipients of services therein, at all times as are necessary to investigate incidents of abuse and neglect in accord with paragraph (1) of subdivision (a), and shall have access during normal working hours and visiting hours for other advocacy services in accord with paragraphs (2), (3), and (4) of subdivision (a). In the case of information and training services, access shall be at times mutually agreeable to the protection and advocacy agency and facility management.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

4903. (a) The protection and advocacy agency shall have access to the records of any of the following persons with developmental disabilities and persons with mental illness:

(1) Any person who is a client of the agency if that person, or the legal guardian, conservator, or other legal representative of that person, has authorized the protection and advocacy agency to have access to the records and information.

(2) Any person, including any individual who is deceased or cannot be located, to whom all of the following conditions apply:

(A) The individual, due to his or her mental or physical condition, is unable to authorize the protection and advocacy agency to have access to his or her records.

(B) The individual does not have a legal guardian, conservator, or other legal representative, or the individual's representative is a public entity, including the state.

(C) The protection and advocacy agency has received a complaint that the individual has been subject to abuse or neglect, or has determined that probable cause exists to believe that the individual has been subject to abuse or neglect.

(3) Any person who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the protection and advocacy agency, or with respect to whom the protection and advocacy agency has determined that probable cause exists to believe the health or safety of the individual is in serious and immediate jeopardy, whenever all of the following conditions exist:

(A) The representative has been contacted by the protection and advocacy agency upon receipt of the representative's name and address.

(B) The protection and advocacy agency has offered

assistance to the representatives to resolve the situation.

(C) The representative has failed or refused to act on behalf of the person.

(b) Information and records which shall be available to the protection and advocacy agency under this section shall include, but not be limited to, all of the following information and records obtained in the course of providing intake, assessment, and services:

(1) Information and records obtained in the course of providing intake, assessment, and services, including reports prepared by any member of the staff of a facility or program rendering care and treatment.

(2) Reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, or injury occurring at the facility that describe any or all of the following:

(A) Abuse, neglect, or injury occurring at the facility.

(B) The steps taken to investigate the incidents.

(3) Discharge planning records.

(c) The authority of the protection and advocacy agency to have access to records does not supersede any prohibition on discovery specified in Sections 1157 and 1157.6 of the Evidence Code.

(d) Confidential information kept or obtained by the protection and advocacy agency shall remain confidential and shall not be subject to disclosure. This subdivision shall not, however, prevent the protection and advocacy agency from doing any of the following:

(1) Sharing the information with the individual client who is the subject of the record or report or other document, or with his or her legally authorized representative.

(2) Issuing a public report of the results of an investigation which maintains the confidentiality of individual service recipients.

(3) Reporting the results of an investigation to responsible investigative or enforcement agencies should an investigation reveal information concerning the facility, its staff, or employees warranting possible sanctions or corrective action. This information may be reported to agencies that are responsible for facility licensing or accreditation, employee discipline, employee licensing or certification suspension or revocation, or criminal prosecution.

(4) Pursuing alternative remedies, including the initiation of legal action.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

4904. (a) The protection and advocacy agency, its employees, and designated agents, shall not be liable for an injury resulting from an employee's or agent's act or omission where the act or omission was the result of the exercise, in good faith, of the discretion vested in him or her.

(b) The protection and advocacy agency, its employees, and designated agents, shall not be liable for damages awarded under Section 3294 of the Civil Code or other damages imposed primarily for the sake of example and by way of punishing the defendant.

(c) The protection and advocacy agency, its employees, and designated agents, when participating in filing a complaint or providing information pursuant to this division or participating in a judicial proceeding resulting therefrom shall be presumed to be acting in good faith and unless the presumption is rebutted, shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that might be incurred or imposed.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

4905. (a) No employee or agent of a facility or program shall subject a person with developmental disabilities or a person with mental illness to reprisal or harassment or directly or indirectly take or threaten to take any actions which prevent the person, his or her legally authorized representative, or family member from reporting or otherwise bringing to the attention of the protection and advocacy agency any facts or information relative to suspected abuse, neglect, or other violations of his or her rights.

(b) Any attempt to involuntarily remove from a facility or program, or to deny privileges or rights without good cause to a person with developmental disabilities or person with mental illness by whom or for whom a complaint has been made to the protection and advocacy agency within 60 days after the date the complaint is made or within 60 days after the conclusion of any proceeding resulting from the complaint shall raise a presumption that the action was taken in retaliation for the filing of the complaint.

(Added by Stats. 1991, Ch. 534, Sec. 7.)

DIVISION 5. COMMUNITY MENTAL HEALTH SERVICES

(Division 5 repealed (comm. with Section 4000) and added by Stats. 1967, Ch. 1667.)

PART 1. THE LANTERMAN-PETRIS-SHORT ACT

(Heading of Part 1 amended by Stats. 1968, Ch. 1374.)

CHAPTER 1. GENERAL PROVISIONS

(Chapter 1 added by Stats. 1967, Ch. 1667.)

5000. This part shall be known and may be cited as the Lanterman-Petris-S hort Act.

(Repealed and added by Stats. 1967, Ch. 1667.)

5001. The provisions of this part shall be construed to promote the legislative intent as follows:

(a) To end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons, developmentally disabled persons, and persons impaired by chronic alcoholism, and to eliminate legal disabilities;

(b) To provide prompt evaluation and treatment of persons with serious mental disorders or impaired by chronic alcoholism;

(c) To guarantee and protect public safety;

(d) To safeguard individual rights through judicial review;

(e) To provide individualized treatment, supervision, and placement services by a conservatorship program for gravely disabled persons;

(f) To encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures;

(g) To protect mentally disordered persons and developmentally disabled persons from criminal acts.

(Amended by Stats. 1977, Ch. 1167.)

5002. Mentally disordered persons and persons impaired by chronic alcoholism may no longer be judicially committed.

Mentally disordered persons shall receive services pursuant to this part. Persons impaired by chronic alcoholism may receive services pursuant to this part if they elect to do so pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part.

Epileptics may no longer be judicially committed.

This part shall not be construed to repeal or modify laws relating to the commitment of mentally disordered sex offenders, mentally retarded persons, and mentally disordered criminal offenders, except as specifically provided in Penal Code Section 4011.6, or as specifically provided in other statutes.

(Amended by Stats. 1971, Ch. 1459.)

5003. Nothing in this part shall be construed in any way as limiting the right of any person to make voluntary application at any time to any public or private agency or practitioner for mental health services, either by direct application in person, or by referral from any other public or private agency or practitioner.

(Added by Stats. 1967, Ch. 1667.)

5004. Mentally disordered persons and developmentally disabled persons shall receive protection from criminal acts equal to that provided any other resident in this state.

(Added by Stats. 1977, Ch. 1167.)

5004.5. Notwithstanding any other provision of law, a

legal guardian, conservator, or any other person who reasonably believes a mentally disordered or developmentally disabled person is the victim of a crime may file a report with an appropriate law enforcement agency. The report shall specify the nature of the alleged offense and any pertinent evidence. Notwithstanding any other provision of law, the information in such report shall not be deemed confidential in any manner. No person shall incur any civil or criminal liability as a result of making any report authorized by this section unless it can be shown that a false report was made and the person knew or should have known that the report was false.

Where the district attorney of the county in which the alleged offense occurred finds, based upon the evidence contained in the report and any other evidence obtained through regular investigatory procedures, that a reasonable probability exists that a crime or public offense has been committed and that the mentally disordered or developmentally disabled person is the victim, the district attorney may file a complaint verified on information and belief.

The filing of a report by a legal guardian, conservator, or any other person pursuant to this section shall not constitute evidence that a crime or public offense has been committed and shall not be considered in any manner by the trier of fact.

(Added by Stats. 1977, Ch. 1167.)

5005. Unless specifically stated, a person complained against in any petition or proceeding initiated by virtue of the provisions of this part shall not forfeit any legal right or suffer legal disability by reason of the provisions of this part.

(Added by Stats. 1967, Ch. 1667.)

5006. The provisions of this part shall not be construed to deny treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or denomination for any person detained for evaluation or treatment who desires such treatment, or to a minor if his parent, guardian, or conservator desires such treatment.

(Added by Stats. 1967, Ch. 1667.)

5007. Unless otherwise indicated, the provisions of this part shall not be construed to apply retroactively to terminate court commitments of mentally ill persons or inebriates under preexisting law.

(Added by Stats. 1967, Ch. 1667.)

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem.

Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis.

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2.

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation.

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. These services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. These files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals.

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as

may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services.

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part.

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350).

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

(2) For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(3) The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone.

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic

training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility.

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2.

(k) "Court," unless otherwise specified, means a court of record.

(l) "Antipsychotic medication" means any medication customarily prescribed for the treatment of symptoms of psychoses and other severe mental and emotional disorders.

(m) "Emergency" means a situation in which action to impose treatment over the person's objection is immediately necessary for the preservation of life or the prevention of serious bodily harm to the patient or others, and it is impracticable to first gain consent. It is not necessary for harm to take place or become unavoidable prior to treatment.

(Amended by Stats. 1991, Ch. 681, Sec. 1.)

5008.1. As used in this division and in Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 6 (commencing with Section 6000), Division 7 (commencing with Section 7100), and Division 8 (commencing with Section 8000), the term "judicially committed" means all of the following:

(a) Persons who are mentally disordered sex offenders placed in a state hospital or institutional unit for observation or committed to the State Department of Mental Health pursuant to Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6.

(b) Developmentally disabled persons who are admitted to a state hospital upon application or who are committed to the State Department of Developmental Services by court order pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6.

(c) Persons committed to the State Department of Mental Health or a state hospital pursuant to the Penal Code.

(Amended by Stats. 1979, Ch. 373.)

5008.2. When applying the definition of mental disorder for the purposes of Articles 2 (commencing with Section 5200), 4 (commencing with Section 5250), and 5 (commencing with Section 5275) of Chapter 2 and Chapter 3 (commencing with Section 5350), the historical course of the person's mental disorder, as determined by available relevant information about the course of the person's mental illness shall be considered when it has a direct bearing on the determination of whether the person is a danger to others, or to himself or herself, or gravely disabled, as a result of a mental

illness. The hearing officer, court, or jury may exclude evidence it deems to be irrelevant due to remoteness of time or dissimilarity of circumstances. The historical course may include, but is not limited to, evidence presented by persons who have provided, or are providing, mental health or related support services to the patient, or evidence presented by family members, or any other person designated by the patient.

(Added by Stats. 1986, Ch. 872, Sec. 1.)

5009. Persons receiving evaluation or treatment under this part shall be given a choice of physician or other professional person providing such services, in accordance with the policies of each agency providing services, and within the limits of available staff in the agency.

(Added by Stats. 1967, Ch. 1667.)

5010. The agency established in this state to fulfill the requirements and assurances of Section 142 of the federal Developmental Disabilities Act of 1984 for a system to protect and advocate the rights of persons with developmental disabilities, as that term is defined by Section 102(7) of the federal act, shall have access to the records of a person with developmental disabilities who resides in a facility for persons with developmental disabilities when both of the following conditions apply:

(1) The agency has received a complaint from or on behalf of the person and the person consents to the disclosure of the records to the extent of his or her capabilities.

(2) The person does not have a parent, guardian or conservator, or the state or the designee of the state is the person's guardian or conservator.

(Added by Stats. 1985, Ch. 1121, Sec. 2.)

5020.1. A mentally ill minor, between the ages of 3 and 18, upon being considered for release from a state hospital shall have an aftercare plan developed. Such plan shall include educational or training needs, provided these are necessary for the patient's well-being.

(Added by Stats. 1973, Ch. 1161.)

5110. Whenever a proceeding is held in a superior court under Article 5 (commencing with Section 5275) or Article 6 (commencing with Section 5300) of this chapter or Chapter 3 (commencing with Section 5350) of this part involving a person who has been placed in a facility located outside the county of residence of the person, the provisions of this section shall apply. The county clerk of the county in which the proceeding is held shall make out a statement of all of the costs incurred by the county for the investigation, preparation, and conduct of the proceedings, and the costs of appeal, if any. The statement shall be certified by a judge

of the superior court of such county. The statement shall then be sent to the county of residence of the person, which shall reimburse the county providing such services. If it is not possible to determine the actual county of residence of the person, the statement shall be sent to the county in which the person was originally detained, which shall reimburse the county providing the services.

(Amended by Stats. 1970, Ch. 1627.)

5111. Any county without a public defender is authorized to compensate the attorneys appointed for persons entitled to be represented by counsel in proceedings under this part.

(Added by Stats. 1970, Ch. 1627.)

5113. Except as provided in Sections 5154, 5173, 5259.3, 5267, and 5306, the facility providing treatment pursuant to Article 1 (commencing with Section 5150), Article 1.5 (commencing with Section 5170), Article 4 (commencing with Section 5250), Article 4.5 (commencing with Section 5260) or Article 6 (commencing with Section 5300), the superintendent of the facility, the professional person in charge of the facility and his or her designee, or the peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the period for which he or she was admitted pursuant to the provisions of the appropriate article.

(Amended by Stats. 1985, Ch. 1288, Sec. 1. Effective September 30, 1985.)

5114. At any judicial proceeding under the provisions of this division, allegations that the person is a danger to others, or to himself, or gravely disabled as a result of mental disorder or impairment by chronic alcoholism, shall be presented by the district attorney for the county, unless the board of supervisors, by ordinance or resolution, delegates such duty to the county counsel.

(Added by Stats. 1970, Ch. 1627.)

5115. The Legislature hereby finds and declares:

(a) It is the policy of this state, as declared and established in this section and in the Lanterman Developmental Disabilities Services Act, Division 4.5 (commencing with Section 4500), that mentally and physically handicapped persons are entitled to live in normal residential surroundings and should not be excluded therefrom because of their disability.

(b) In order to achieve uniform statewide implementation of the policies of this section and those of the Lanterman Developmental Disabilities Services Act, it is necessary to establish the statewide policy that the use of property for the care of six or fewer mentally disordered or otherwise handicapped persons is a residential use of such property for the purposes of zoning.

(Amended by Stats. 1978, Ch. 891.)

5116. Pursuant to the policy stated in Section 5115, a state-authorized, certified, or licensed family care home, foster home, or group home serving six or fewer mentally disordered or otherwise handicapped persons or dependent and neglected children, shall be considered a residential use of property for the purposes of zoning if such homes provide care on a 24-hour-a-day basis.

Such homes shall be a permitted use in all residential zones, including, but not limited to, residential zones for single-family dwellings.

(Amended by Stats. 1978, Ch. 891.)

5117. In order to further facilitate achieving the purposes of this act and the Lanterman Mental Retardation Act of 1969, it is desirable that there be a consolidation of the facilities standard setting, licensure and ratesetting functions of the various state departments under the jurisdiction of the Health and Welfare Agency.

(Amended by Stats. 1979, Ch. 373.)

5118. For the purpose of conducting hearings under this part, the court in and for the county where the petition is filed may be convened at any time and place within or outside the county suitable to the mental and physical health of the patient, and receive evidence both oral and written, and render decisions, except that the time and place for hearing shall not be different from the time and place for the trial of civil actions for such court if any party to the proceeding, prior to the hearing, objects to the different time or place.

Hearings conducted at any state hospital or any mental health facility designated by any county as a treatment facility under this part or any facility referred to in Section 5358 or Division 7 (commencing with Section 7100), within or outside the county, shall be deemed to be hearings held in a place for the trial of civil actions and in a regular courtroom of the court.

Notwithstanding any other provisions of this section, any party to the proceeding may demand that the hearing be public, and be held in a place suitable for attendance by the public.

Notwithstanding any other provisions of law, any hearing under this part which was held before enactment of this section but which would have been in accordance with this section had it been effective is deemed to be valid for all purposes.

As used in this section, a "hearing under this part" includes conservatorship and other hearings held pursuant to Chapter 3 (commencing with Section 5350) of this part.

(Amended by Stats. 1979, Ch. 373.)

5119. On and after July 1, 1972, when a person who is an employee of the State Department of Mental Health at the time of employment by a county in a county mental health program or on and after July 1, 1972, when a person has been an employee of the State Department of Mental Health within the 12-month period prior to his employment by a county in a county mental health program, the board of supervisors may, to the extent feasible, allow such person to retain as a county employee, those employee benefits to which he was entitled or had accumulated as an employee of the State Department of Mental Health or provide such employee with comparable benefits provided for other county employees whose service as county employees is equal to the state service of the former employee of the State Department of Mental Health. Such benefits include, but are not limited to, retirement benefits, seniority rights under civil service, accumulated vacation and sick leave.

The county may on and after July 1, 1972, establish retraining programs for the State Department of Mental Health employees transferring to county mental health programs provided such programs are financed entirely with state and federal funds made available for that purpose.

For the purpose of this section "employee of the Department of Mental Health" means an employee of such department who performs functions which, prior to July 1, 1973, were vested in the Department of Mental Hygiene.

(Amended by Stats. 1977, Ch. 1252.)

5120. It is the policy of this state as declared and established in this act and in the Lanterman-Petris-Short Act that the care and treatment of mental patients be provided in the local community. In order to achieve uniform statewide implementation of the policies of this act, it is necessary to establish the statewide policy that, notwithstanding any other provision of law, no city or county shall discriminate in the enactment, enforcement, or administration of any zoning laws, ordinances, or rules and regulations between the use of property for the treatment of general hospital or nursing home patients and the use of property for the psychiatric care and treatment of patients, both inpatient and outpatient.

Health facilities for inpatient and outpatient psychiatric care and treatment shall be permitted in any area zoned for hospitals or nursing homes, or in which hospitals and nursing homes are permitted by conditional use permit.

(Amended by Stats. 1972, Ch. 559.)

CHAPTER 2. INVOLUNTARY TREATMENT

(Chapter 2 added by Stats. 1967, Ch. 1667.)

Article 1. Detention of Mentally Disordered Persons for Evaluation and Treatment

(Heading of Article 1 amended by Stats. 1969, Ch. 1472.)

5150. When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

(Amended by Stats. 1980, Ch. 968, Sec. 1.)

5150.1. No peace officer seeking to transport, or having transported, a person to a designated facility for assessment under Section 5150, shall be instructed by mental health personnel to take the person to, or keep the person at, a jail solely because of the unavailability of an acute bed, nor shall the peace officer be forbidden to transport the person directly to the designated facility. No mental health employee from any county, state, city, or any private agency providing Short-Doyle psychiatric emergency services shall interfere with a peace officer performing duties under Section 5150 by preventing the peace officer from entering a designated facility with the person to be assessed, nor shall any employee of such an agency require the peace officer to remove the person without assessment as a condition of allowing the peace officer to depart.

"Peace officer" for the purposes of this section also means a jailer seeking to transport or transporting a person in custody to a designated facility for assessment consistent with Section 4011.6 or 4011.8 of the Penal Code and Section 5150.

(Added by Stats. 1985, Ch. 1286, Sec. 6.2. Effective September 30, 1985.)

5150.2. In each county whenever a peace officer has transported a person to a designated facility for assessment under Section 5150, that officer shall be detained no longer than the time necessary to complete documentation of the factual basis of the detention under Section 5150 and a safe and orderly transfer of physical custody of the person. The documentation shall include detailed information regarding the factual circumstances and observations constituting probable cause for the peace officer to believe that the individual required psychiatric evaluation under the standards of Section 5105.

Each county shall establish disposition procedures and guidelines with local law enforcement agencies as necessary to relate to persons not admitted for evaluation and treatment and who decline alternative mental health services and to relate to the safe and orderly transfer of physical custody of persons under Section 5150, including those who have a criminal detention pending.

(Added by Stats. 1985, Ch. 1286, Sec. 6.4. Effective September 30, 1985.)

5150.3. Whenever any person presented for evaluation at a facility designated under Section 5150 is found to be in need of mental health services, but is not admitted to the facility, all available alternative services provided for pursuant to Section 5151 shall be offered as determined by the county mental health director.

(Added by Stats. 1985, Ch. 1286, Sec. 6.6. Effective September 30, 1985.)

5150.4. "Assessment" for the purposes of this article, means the determination of whether a person shall be evaluated and treated pursuant to Section 5150.

(Added by Stats. 1985, Ch. 1286, Sec. 6.7. Effective September 30, 1985.)

5151. If the facility for 72-hour treatment and evaluation admits the person, it may detain him or her for evaluation and treatment for a period not to exceed 72 hours. Saturdays, Sundays, and holidays may be excluded from the 72-hour period if the Department of Mental Health certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

Prior to admitting a person to the facility for 72-hour

treatment and evaluation pursuant to Section 5150, the professional person in charge of the facility or his or her designee shall assess the individual in person to determine the appropriateness of the involuntary detention.

If in the judgment of the professional person in charge of the facility providing evaluation and treatment, or his or her designee, the person can be properly served without being detained, he or she shall be provided evaluation, crisis intervention, or other inpatient or outpatient services on a voluntary basis.

Nothing in this section shall be interpreted to prevent a peace officer from delivering individuals to a designated facility for assessment under Section 5150. Furthermore, the preadmission assessment requirement of this section shall not be interpreted to require peace officers to perform any additional duties other than those specified in Sections 5150.1 and 5150.2.

(Amended by Stats. 1986, Ch. 323, Sec. 1.)

5152. (a) Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon after he or she is admitted as possible and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment.

(b) Persons who have been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, certified for intensive treatment, or a conservator or temporary conservator shall be appointed pursuant to this part as required.

(c) Persons who have been detained for evaluation and treatment, who are receiving medications as a result of their mental illness, shall be given, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication by a person designated by the mental health facility where the person is detained. The State Department of Mental Health shall develop and promulgate written materials on the effects

of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

(1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

(2) The likelihood of improving or not improving without the medications.

(3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medications, and the probable length of time that the medications will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

(Amended by Stats. 1986, Ch. 872, Sec. 1.5.)

5152.1. The professional person in charge of the facility providing 72-hour evaluation and treatment, or his or her designee, shall notify the county mental health director or the director's designee and the peace officer who makes the written application pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, when the person has been released after 72-hour detention, when the person is not detained, or when the person is released before the full period of allowable 72-hour detention if all of the following conditions apply:

(a) The peace officer requests such notification at the time he or she makes the application and the peace officer certifies at that time in writing that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(b) The notice is limited to the person's name, address, date of admission for 72-hour evaluation and treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

(Amended by Stats. 1983, Ch. 755, Sec. 1.)

5152.2. Each law enforcement agency within a county shall

arrange with the county mental health director a method for giving prompt notification to peace officers pursuant to Section 5152.1.

(Added by Stats. 1975, Ch. 960.)

5153. Whenever possible, officers charged with apprehension of persons pursuant to this article shall dress in plain clothes and travel in unmarked vehicles.

(Amended by Stats. 1969, Ch. 722.)

5154. (a) Notwithstanding Section 5113, if the provisions of Section 5152 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, his or her designee, the medical director of the facility or his or her designee described in Section 5152, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

(Amended by Stats. 1985, Ch. 1288, Sec. 3. Effective September 30, 1985.)

5155. Nothing in this part shall be construed as granting authority to local entities to issue licenses supplementary to existing state and local licensing laws.

(Added by Stats. 1968, Ch. 1374.)

5156. At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person's personal property, the person taking him into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person. The person taking him into custody shall then furnish to the court a report generally describing the person's property so preserved and safeguarded and its disposition, in substantially the form set forth in Section 5211; except that if a responsible relative or the guardian or conservator of the person is in possession of the person's property, the report shall include only

the name of the relative or guardian or conservator and the location of the property, whereupon responsibility of the person taking him into custody for such property shall terminate.

As used in this section, "responsible relative" includes the spouse, parent, adult child, or adult brother or sister of the person, except that it does not include the person who applied for the petition under this article.

(Added by Stats. 1969, Ch. 722.)

5157. (a) Each person, at the time he or she is first taken into custody under provisions of Section 5150, shall be provided, by the person who takes such other person into custody, the following information orally. The information shall be in substantially the following form:

My name is
_____ .
I am a
_____ .
(peace officer, mental health professional)
with
_____ .
(name of agency)
You are not under criminal arrest, but I am taking you for examination by mental health professionals at _____
_____
____ .
(name of facility)
You will be told your rights by the mental health staff.

If taken into custody at his or her residence, the person shall also be told the following information in substantially the following form:

You may bring a few personal items with you which I will have to approve. You can make a phone call and/or leave a note to tell your friends and/or family where you have been taken.

(b) The designated facility shall keep, for each patient evaluated, a record of the advisement given pursuant to subdivision (a) which shall include:

(1) Name of person detained for evaluation.

(2) Name and position of peace officer or mental health professional taking person into custody.

(3) Date.

(4) Whether advisement was completed.

(5) If not given or completed, the mental health professional at the facility shall either provide the information specified in subdivision (a), or include a statement of good cause, as defined by regulations of the State Department of Mental Health, which shall be kept with the patient's medical record.

(c) Each person admitted to a designated facility for 72-hour evaluation and treatment shall be given the following information by admission staff at the evaluation unit. The information shall be given orally and in writing and in a language or modality accessible to the person. The written information shall be available in the person's native language or the language which is the person's principal means of communication. The information shall be in substantially the following form:

My name is
_____ .
My position here is _____
.

You are being placed into the psychiatric unit because it is our professional opinion that as a result of mental disorder, you are likely to:

(check applicable)
harm yourself ____
harm someone else ____
be unable to take care of your own
food, clothing, and housing needs ____

We feel this is true because
(herewith a listing of the facts upon which the allegation of dangerous or gravely disabled due to mental disorder is based, including pertinent facts arising from the admission interview.)

You will be held on the ward for a period up to 72 hours.

This does not include weekends or holidays.
Your 72-hour period will begin
_____
(day and time.)

During these 72 hours you will be evaluated by the hospital staff, and you may be given treatment, including medications. It is possible for you to be released before the end of the 72 hours. But if the staff decides that you need continued treatment you can be held for a longer period of time. If you are held longer than 72 hours you have the right to a lawyer and a qualified interpreter and a hearing before a judge. If you are unable to pay for the lawyer, then one will be provided free.

(d) For each patient admitted for 72-hour evaluation and treatment, the facility shall keep with the patient's medical record a record of the advisement given pursuant to subdivision (c) which shall include:

(1) Name of person performing advisement.

(2) Date.

(3) Whether advisement was completed.

(4) If not completed, a statement of good cause.

If the advisement was not completed at admission, the advisement process shall be continued on the ward until completed. A

record of the matters prescribed by subdivisions (a), (b), and (c) shall be kept with the patient's medical record.

(Amended by Stats. 1979, Ch. 373.)

Article 1.5. Detention of Inebriates for Evaluation and Treatment

(Article 1.5 added by Stats. 1969, Ch. 1472.)

5170. When any person is a danger to others, or to himself, or gravely disabled as a result of inebriation, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, or other person designated by the county may, upon reasonable cause, take, or cause to be taken, the person into civil protective custody and place him in a facility designated by the county and approved by the State Department of Alcohol and Drug Abuse as a facility for 72-hour treatment and evaluation of inebriates.

(Amended by Stats. 1978, Ch. 429.)

5170.1. A 72-hour treatment and evaluation facility shall include one or more of the following:

(1) A screening, evaluation, and referral facility which may be accomplished by a mobile crisis unit, first aid station or ambulatory detoxification unit;

(2) A detoxification facility for alcoholic and acutely intoxicated persons.

(3) An alcohol recovery house.

(Added by Stats. 1974, Ch. 1024.)

5170.3. Such evaluation facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or other designated person, and stating that the officer, member of the attending staff, or other designated person believes as a result of his personal observations that the person is, as a result of inebriation, a danger to others, or to himself, or gravely disabled or has violated subdivision (f) of Section 647 of the Penal Code.

(Added by Stats. 1971, Ch. 1581.)

5170.5. Any person placed in an evaluation facility has, immediately after he is taken to an evaluation facility and except where physically impossible, no later than three hours after he is placed in such facility or taken to such unit, the right to make, at his own expense, at least two completed telephone calls. If the person placed in the evaluation facility does not have money upon him with which to make such calls, he shall be allowed free at least two

completed local toll free or collect telephone calls.

(Amended by Stats. 1974, Ch. 1024.)

5170.7. A person who requests to be released from the facility before 72 hours have elapsed shall be released only if the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person is not a danger to others, or to himself or herself. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person is not a danger to others, or to himself or herself.

(Amended by Stats. 1985, Ch. 1288, Sec. 4. Effective September 30, 1985.)

5171. If the facility for 72-hour treatment and evaluation of inebriates admits the person, it may detain him for evaluation and detoxification treatment, and such other treatment as may be indicated, for a period not to exceed 72 hours. Saturdays, Sundays and holidays shall be included for the purpose of calculating the 72-hour period. However, a person may voluntarily remain in such facility for more than 72 hours if the professional person in charge of the facility determines the person is in need of and may benefit from further treatment and care, provided any person who is taken or caused to be taken to the facility shall have priority for available treatment and care over a person who has voluntarily remained in a facility for more than 72 hours.

If in the judgment of the professional person in charge of the facility providing evaluation and treatment, the person can be properly served without being detained, he shall be provided evaluation, detoxification treatment or other treatment, crisis intervention, or other inpatient or outpatient services on a voluntary basis.

(Amended by Stats. 1971, Ch. 1581.)

5172. Each person admitted to a facility for 72-hour treatment and evaluation under the provisions of this article shall receive an evaluation as soon after he or she is admitted as possible and shall receive whatever treatment and care his or her condition requires for the full period that he or she is held. The person shall be released before 72 hours have elapsed only if, the psychiatrist

directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment. If any other professional person who is authorized to release the person, believes the person should be released before 72 hours have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 72 hours have elapsed only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person no longer requires evaluation or treatment.

Persons who have been detained for evaluation and treatment shall be released, referred for further care and treatment on a voluntary basis, or, if the person, as a result of impairment by chronic alcoholism, is a danger to others or to himself or herself, or gravely disabled, he or she may be certified for intensive treatment, or a conservator or temporary conservator shall be appointed for him or her pursuant to this part as required.

(Amended by Stats. 1985, Ch. 1288, Sec. 5. Effective September 30, 1985.)

5172.1. Any person who is a danger to others, or to himself, or gravely disabled as a result of inebriation, may voluntarily apply for admission to a 72-hour evaluation and detoxification treatment facility for inebriates.

(Added by Stats. 1971, Ch. 1581.)

5173. (a) Notwithstanding Section 5113, if the provisions of Section 5170.7 or 5172 have been met, the professional person in charge of the facility providing 72-hour treatment and evaluation, the medical director of the facility or his or her designee described in Sections 5170.7 and 5172, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 72 hours pursuant to this article.

(b) The professional person in charge of the facility providing 72-hour treatment and evaluation, the medical director of the facility or his or her designee described in Sections 5170.7 and 5172, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 72 hours pursuant to this article.

(c) The peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of the 72 hours pursuant to this article.

(Amended by Stats. 1985, Ch. 1288, Sec. 6. Effective September 30, 1985.)

5174. It is the intent of the Legislature (a) that facilities for 72-hour treatment and evaluation of inebriates be subject to state funding under Part 2 (commencing with Section 5600) of this division only if they provide screening, evaluation and referral services and have available medical services in the facility or by referral agreement with an appropriate medical facility, and would normally be considered an integral part of a community health program; (b) that state reimbursement under Part 2 (commencing with Section 5600) for such 72-hour facilities and intensive treatment facilities, under this article shall not be included as priority funding as are reimbursements for other county expenditures under this part for involuntary treatment services, but may be provided on the basis of new and expanded services if funds for new and expanded services are available; that while facilities receiving funds from other sources may, if eligible for funding under this division, be designated as 72-hour facilities, or intensive treatment facilities for the purposes of this article, funding of such facilities under this division shall not be substituted for such previous funding.

No 72-hour facility, or intensive treatment facility for the purposes of this article shall be eligible for funding under Part 2 (commencing with Section 5600) of this division until approved by the Director of Alcohol and Drug Abuse in accordance with standards established by the State Department of Alcohol and Drug Abuse in regulations adopted pursuant to this part. To the maximum extent possible, each county shall utilize services provided for inebriates and persons impaired by chronic alcoholism by federal and other funds presently used for such services, including federal and other funds made available to the State Department of Rehabilitation and the State Department of Alcohol and Drug Abuse. McAteer funds shall not be utilized for the purposes of the 72-hour involuntary holding program as outlined in this chapter.

(Amended by Stats. 1978, Ch. 429.)

5175. Nothing in this article shall be construed to prevent a facility designated as a facility for 72-hour evaluation and treatment of inebriates from also being designated as a facility for 72-hour evaluation and treatment of other persons subject to this part, including persons impaired by chronic alcoholism.

(Added by Stats. 1969, Ch. 1472.)

5176. This article shall apply only to those counties wherein the board of supervisors has adopted a resolution stating that suitable facilities exist within the county for the care and treatment of inebriates and persons impaired by chronic alcoholism, designating the facilities to be used as facilities for 72-hour treatment and

evaluation of inebriates and for the extensive treatment of persons impaired by chronic alcoholism, and otherwise adopting the provisions of this article.

Each county Short-Doyle plan for a county to which this article is made applicable shall designate the specific facility or facilities for 72-hour evaluation and detoxification treatment of inebriates and for intensive treatment of persons impaired by chronic alcoholism and for the treatment of such persons on a voluntary basis under this article, and shall specify the maximum number of patients that can be served at any one time by each such facility.

(Amended by Stats. 1974, Ch. 1024.)

Article 2. Court-Ordered Evaluation for Mentally Disordered Persons

(Article 2 added by Stats. 1967, Ch. 1667.)

5200. Any person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, may be given an evaluation of his condition under a superior court order pursuant to this article. The provisions of this article shall be carried out with the utmost consideration for the privacy and dignity of the person for whom a court-ordered evaluation is requested.

(Repealed and added by Stats. 1967, Ch. 1667.)

5201. Any individual may apply to the person or agency designated by the county for a petition alleging that there is in the county a person who is, as a result of mental disorder a danger to others, or to himself, or is gravely disabled, and requesting that an evaluation of the person's condition be made.

(Repealed and added by Stats. 1967, Ch. 1667.)

5202. The person or agency designated by the county shall prepare the petition and all other forms required in the proceeding, and shall be responsible for filing the petition. Before filing the petition, the person or agency designated by the county shall request the person or agency designated by the county and approved by the State Department of Mental Health to provide prepetition screening to determine whether there is probable cause to believe the allegations. The person or agency providing prepetition screening shall conduct a reasonable investigation of the allegations and make a reasonable effort to personally interview the subject of the petition. The screening shall also determine whether the person will agree voluntarily to receive crisis intervention services or an evaluation in his own home or in a facility designated by the county and approved by the State Department of Mental Health. Following prepetition screening, the person or agency designated by the county shall file the petition if satisfied that there is probable cause to believe that the person is, as a result of mental disorder, a danger to others, or

to himself or herself, or gravely disabled, and that the person will not voluntarily receive evaluation or crisis intervention.

If the petition is filed, it shall be accompanied by a report containing the findings of the person or agency designated by the county to provide prepetition screening. The prepetition screening report submitted to the superior court shall be confidential and shall be subject to the provisions of Section 5328.

(Amended by Stats. 1980, Ch. 1169, Sec. 1.)

5203. Any individual who seeks a petition for court-ordered evaluation knowing that the person for whom the petition is sought is not, as a result of mental disorder, a danger to himself, or to others, or gravely disabled is guilty of a misdemeanor, and may be held liable in civil damages by the person against whom the petition was sought.

(Amended by Stats. 1969, Ch. 722.)

5204. The petition for a court-ordered evaluation shall contain the following:

(a) The name and address of the petitioner and his interest in the case.

(b) The name of the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, and, if known to the petitioner, the address, age, sex, marital status, and occupation of the person.

(c) The facts upon which the allegations of the petition are based.

(d) The name of, as a respondent thereto, every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, and the address of each such person, if known to the petitioner.

(e) Such other information as the court may require.

(Added by Stats. 1967, Ch. 1667.)

5205. The petition shall be in substantially the following form:

In the Superior Court of the State of California for the County of _____

_____

The People of the State of California No. ___ Concerning Petition for

_____ and

Evaluation

_____

Respondents

_____

_____, residing at _____ (tel. _____), being duly sworn, alleges: That there is now in the county, in the City or Town of ____, a person named _____, who resides at _____, and who is, as a result of mental disorder:

(1) A danger to others.

(2) A danger to himself.

(3) Gravely disabled as defined in subdivision (h) of Section 5008 of the Welfare and Institutions Code (Strike out all inapplicable classifications).

That the person is ____ years of age; that _he is ____ (sex); and that _he is ____ (single, married, widowed, or divorced); and that ____ occupation is ____.

That the facts upon which the allegations of the petition are based are as follows: That _he, at ____ in the county, on the ____ day of ____, 19_,

_____

_____

_____

_____

That petitioner's interest in the case is _____

_____

_____

That the person responsible for the care, support, and maintenance of the person, and their relationship to the person are, so far as known to the petitioner, as follows: (Give names, addresses, and relationship of persons named as respondents)

Wherefore, petitioner prays that evaluation be made to determine the condition of ____, alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled.

_____

Petitioner

Subscribed and sworn to before me this ____ day of ____ 19_.

_____, County Clerk

By _____

Deputy

(Amended by Stats. 1968, Ch. 1374.)

5206. Whenever it appears, by petition pursuant to this article, to the satisfaction of a judge of a superior court that a person is, as a result of mental disorder, a danger to others, or to himself, or gravely disabled, and the person has refused or failed to accept evaluation voluntarily, the judge shall issue an order notifying the person to submit to an evaluation at such time and place as designated by the judge. The order for an evaluation shall be

served as provided in Section 5208 by a peace officer, counselor in mental health, or a court-appointed official. The person shall be permitted to remain in his home or other place of his choosing prior to the time of evaluation, and shall be permitted to be accompanied by one or more of his relatives, friends, an attorney, a personal physician, or other professional or religious advisor to the place of evaluation. If the person to receive evaluation so requests, the individual or individuals who accompany him may be present during the evaluation.

If the person refuses or fails to appear for evaluation after having been properly notified, a peace officer, counselor in mental health, or a court-appointed official shall take the person into custody and place him in a facility designated by the county as a facility for treatment and evaluation. The person shall be evaluated as promptly as possible, and shall in no event be detained longer than 72 hours under the court order, excluding Saturdays, Sundays, and holidays if treatment and evaluation services are not available on those days.

Persons who have been detained for evaluation shall be released, referred for care and treatment on a voluntary basis, certified for intensive treatment, or recommended for conservatorship pursuant to this part, as required.

(Added by Stats. 1967, Ch. 1667.)

5207. The order for evaluation shall be in substantially the following form:

In the Superior Court of the State of California
for the County of _____

The People of the State of California	No. _____
Concerning	Order
_____ and	for
_____	Evaluation
Respondents	or Detention

The People of the State of California to _____

_____
_:

(Peace officer, counselor in mental health, or other official appointed by the court)

The petition of ____ has been presented this day to me, a Judge of the Superior Court for the County of ____, State of California, from which it appears that there is now in this county, at ____, a person by the name of ____, who is, as a result of mental disorder, a danger to others, or to himself, or gravely disabled.

Now, therefore, you are directed to notify ____ to submit

to an evaluation at ____ on the ____ day of ____, 19_, at __ o'clock __m.

____ shall be permitted to be accompanied by one or more of his relatives, friends, an attorney, a personal physician, or other professional or religious advisor.

The individual or individuals who accompany ____ may be present during the evaluation if so requested by ____.

*Provision for Detention for Evaluation

If the person fails or refuses to appear for evaluation when notified by order of this court, you are hereby directed to detain said ____ or cause him to be detained at ____ for a period no longer than 72 hours, excluding Saturdays, Sundays, and holidays if evaluation services are not available on those days, for the purposes of evaluation.

I hereby direct that a copy of this order together with a copy of the petition be delivered to said person and his representative, if any, at the time of his notification; and I further authorize the service of this order at any hour of the day or night.

Witness my hand, this ____ day of ____, 19_

_____

Judge of the Superior Court

*This paragraph is applicable only if the person to be evaluated fails or refuses to appear for evaluation after having been properly notified.

Return of Order

I hereby certify that I received the above order for the evaluation of ____ and on the ____ day of ____, 19_, personally served a copy of the order and of the petition on ____ and the professional person in charge of the ____, a facility for treatment and evaluation, or his designee.

Dated: ____, 19_.

_____

Signature and Title

(Added by Stats. 1967, Ch. 1667.)

5208. As promptly as possible, a copy of the petition and the order for evaluation shall be personally served on the person to be evaluated and the professional person in charge of the facility for treatment and evaluation named in the order, or his designee.

If the person to be evaluated fails to appear for an evaluation at the time designated in the order, the professional person in charge, or his designee, shall notify the person who served the order to have the person to be evaluated detained pursuant to the order.

(Added by Stats. 1967, Ch. 1667.)

5210. At the time a person is taken into custody for evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person's personal property, the person taking him into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person. The person taking him into custody shall then furnish to the court a report generally describing the person's property so preserved and safeguarded and its disposition, in substantially the form set forth in Section 5211; except that if a responsible relative or the guardian or conservator of the person is in possession of the person's property, the report shall include only the name of the relative or guardian or conservator and the location of the property, whereupon responsibility of the person taking him into custody for such property shall terminate.

As used in this section, "responsible relative" includes the spouse, parent, adult child, or adult brother or sister of the person, except that it does not include the person who applied for the petition under this article.

(Added by Stats. 1967, Ch. 1667.)

5211. The report of a patient's property required by Section 5210 to be made by the person taking him into custody for evaluation shall be in substantially the following form:

Report of Officer

I hereby report to the Superior Court for the County of ____ that the personal property of the person apprehended, described generally as ____ was preserved and safeguarded by ____ (Insert name of person taking him into custody, responsible relative, guardian, or conservator).

That property is now located at ____.

Dated: ____ 19_.

_____

Signature and Title

(Added by Stats. 1967, Ch. 1667.)

5212. Whenever possible, persons charged with service of orders and apprehension of persons pursuant to this article shall dress in plain clothes and travel in unmarked vehicles.

(Amended by Stats. 1969, Ch. 722.)

5213. (a) If, upon evaluation, the person is found to be in need of treatment because he or she is, as a result of mental disorder, a danger to others, or to himself or herself, or is gravely disabled, he or she may be detained for treatment in a facility for 72-hour treatment and evaluation. Saturdays, Sundays, and holidays

may be excluded from the 72-hour period if the State Department of Mental Health certifies for each facility that evaluation and treatment services cannot reasonably be made available on those days. The certification by the department is subject to renewal every two years. The department shall adopt regulations defining criteria for determining whether a facility can reasonably be expected to make evaluation and treatment services available on Saturdays, Sundays, and holidays.

(b) Persons who have been detained for evaluation and treatment, who are receiving medications as a result of their mental illness, shall be given, as soon as possible after detention, written and oral information about the probable effects and possible side effects of the medication, by a person designated by the mental health facility where the person is detained. The State Department of Mental Health shall develop and promulgate written materials on the effects of medications, for use by county mental health programs as disseminated or as modified by the county mental health program, addressing the probable effects and the possible side effects of the medication. The following information shall be given orally to the patient:

(1) The nature of the mental illness, or behavior, that is the reason the medication is being given or recommended.

(2) The likelihood of improving or not improving without the medications.

(3) Reasonable alternative treatments available.

(4) The name and type, frequency, amount, and method of dispensing the medications, and the probable length of time that the medications will be taken.

The fact that the information has or has not been given shall be indicated in the patient's chart. If the information has not been given, the designated person shall document in the patient's chart the justification for not providing the information. A failure to give information about the probable effects and possible side effects of the medication shall not constitute new grounds for release.

(Amended by Stats. 1986, Ch. 872, Sec. 2.)

Article 3. Court-Ordered Evaluation for Persons Impaired by Chronic Alcoholism or Drug Abuse

(Heading of Article 3 amended by Stats. 1970, Ch. 1129.)

5225. Whenever a criminal defendant who appears, as a result of chronic alcoholism or the use of narcotics or restricted dangerous drugs, to be a danger to others, to himself, or to be gravely disabled, is brought before any judge, the judge may order the defendant's evaluation under conditions set forth in this article,

provided evaluation services designated in the county plan pursuant to Section 5654 are available.

(Amended by Stats. 1979, Ch. 373.)

5226. Such a criminal defendant must be advised of his right to immediately continue with the criminal proceeding, and it is the duty of the judge to apprise the defendant fully of his option and of the consequences which will occur if the defendant chooses the evaluation procedures. The defendant shall have a right to legal counsel at the proceedings at which the choice is made.

(Added by Stats. 1967, Ch. 1667.)

5226.1. If a judge issues an order for evaluation under conditions set forth in this article, proceedings on the criminal charge then pending in the court from which the order for evaluation issued shall be dismissed or suspended until such time as the evaluation of the defendant and the subsequent detention of the defendant for involuntary treatment, if any, are completed. Upon completion of such evaluation and detention, if any, the defendant shall, if such criminal charge has not been dismissed, be returned by the sheriff of the county in which the order of evaluation was made, from the evaluation or intensive treatment facility to the custody of the sheriff who shall return the defendant to the court where the order for evaluation was made, and proceedings on the criminal charge shall be resumed or dismissed. If, during evaluation or detention for involuntary treatment, the defendant is recommended for conservatorship, and if the criminal charge has not previously been dismissed, the defendant shall be returned by the sheriff to the court in which such charge is pending for the disposition of the criminal charge prior to the initiation of the conservatorship proceedings. The judge of such court may order such defendant to be detained in the evaluation or treatment facility until the day set for the resumption of the proceedings on the criminal charge.

(Amended by Stats. 1969, Ch. 722.)

5227. The order for evaluation shall be in substantially the following form:

In the ____ Court of the State of California for the County of ____

_____

The People of the State of California No. ___

Concerning

Order

_____ and for

_____ Evaluation

Respondents

_____

The People of the State of California to _____

_____

____ :

(Professional person in charge of the facility providing evaluation)

_____ has appeared before me and appears to be, as a result of _____ (chronic alcoholism, the use of narcotics, or the use of restricted dangerous drugs), a danger to himself, or others, or gravely disabled.

Now, therefore, you are directed to evaluate _____ at _____ on the ____ day of ____, 19_, at __ o'clock _m.

Witness my hand, this ____ day of ____, 19_.

_____

Judge of the ____ Court

Return of Order

I hereby certify that I received the above order for the evaluation of _____ and on the ____ day of ____, 19_, personally served a copy of the order and of the petition on the professional person in charge of the _____, a facility for treatment and evaluation, or his designee.

Dated: ____, 19_.

_____

Signature and title

(Amended by Stats. 1970, Ch. 1129.)

5228. As promptly as possible, a copy of the order for evaluation shall be personally served on the person to be evaluated and the professional person in charge of the facility for treatment and evaluation named in the order, or his designee.

(Added by Stats. 1967, Ch. 1667.)

5229. At the time a person is ordered to undergo evaluation, or within a reasonable time thereafter, unless a responsible relative or the guardian or conservator of the person is in possession of the person's personal property, the person shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by the person. The person responsible for taking him to the evaluation facility shall then furnish to the court a report generally describing the person's property so preserved and safeguarded and its disposition, in substantially the form set forth in Section 5211; except that if a responsible relative or the guardian or conservator of the person is in possession of the person's property, the report shall include only the name of the relative or guardian or conservator and the location of the property, whereupon responsibility of the person responsible for taking him to the evaluation facility for such property shall terminate.

As used in this section, "responsible relative" includes the spouse, parent, adult child, or adult brother or sister of the

person.

(Added by Stats. 1967, Ch. 1667.)

5230. If, upon evaluation, the person is found to be in need of treatment because he is, as a result of impairment by chronic alcoholism or the use of narcotics or restricted dangerous drugs, a danger to others, or to himself, or is gravely disabled, he may be detained for treatment in a facility for 72-hour treatment and evaluation. Except as provided in this section, he shall in no event be detained longer than 72 hours from the time of evaluation or detention for evaluation, excluding Saturdays, Sundays and holidays if treatment services are not available on those days.

Persons who have been detained for evaluation and treatment shall be released if the criminal charge has been dismissed; released to the custody of the sheriff or continue to be detained pursuant to court order under Section 5226.1; referred for further care and treatment on a voluntary basis, subject to the disposition of the criminal action; certified for intensive treatment; or recommended for conservatorship pursuant to this part, subject to the disposition of the criminal charge; as required.

(Amended by Stats. 1970, Ch. 1129.)

Article 4. Certification for Intensive Treatment

(Article 4 repealed and added by Stats. 1982, Ch. 1598, Sec. 4.)

5250. If a person is detained for 72 hours under the provisions of Article 1 (commencing with Section 5150), or under court order for evaluation pursuant to Article 2 (commencing with Section 5200) or Article 3 (commencing with Section 5225) and has received an evaluation, he or she may be certified for not more than 14 days of intensive treatment related to the mental disorder or impairment by chronic alcoholism, under the following conditions:

(a) The professional staff of the agency or facility providing evaluation services has analyzed the person's condition and has found the person is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled.

(b) The facility providing intensive treatment is designated by the county to provide intensive treatment, and agrees to admit the person. No facility shall be designated to provide intensive treatment unless it complies with the certification review hearing required by this article. The procedures shall be described in the county Short-Doyle plan as required by Section 5651.3.

(c) The person has been advised of the need for, but has not been willing or able to accept, treatment on a voluntary basis.

(d) (1) Notwithstanding paragraph (1) of subdivision (h) of

Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the certification review officer to publicly find, that no one is willing or able to assist the mentally disordered person in providing for the person's basic needs for food, clothing, or shelter.

(Amended by Stats. 1989, Ch. 999, Sec. 1.)

5250.1. The professional person in charge of a facility providing intensive treatment, pursuant to Section 5250 or 5270.15, or that person's designee, shall notify the county mental health director, or the director's designee, and the peace officer who made the original written application for 72-hour evaluation pursuant to Section 5150 or a person who is designated by the law enforcement agency that employs the peace officer, that the person admitted pursuant to the application has been released unconditionally if all of the following conditions apply:

(a) The peace officer has requested notification at the time he or she makes the application for 72-hour evaluation.

(b) The peace officer has certified in writing at the time he or she made the application that the person has been referred to the facility under circumstances which, based upon an allegation of facts regarding actions witnessed by the officer or another person, would support the filing of a criminal complaint.

(c) The notice is limited to the person's name, address, date of admission for 72-hour evaluation, date of certification for intensive treatment, and date of release.

If a police officer, law enforcement agency, or designee of the law enforcement agency, possesses any record of information obtained pursuant to the notification requirements of this section, the officer, agency, or designee shall destroy that record two years after receipt of notification.

(Amended by Stats. 1988, Ch. 1517, Sec. 2.)

5251. For a person to be certified under this article, a notice of certification shall be signed by two people. The first person shall be the professional person, or his or her designee, in charge of the agency or facility providing evaluation services. A designee of the professional person in charge of the agency or facility shall be a physician or a licensed psychologist who has a

doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

The second person shall be a physician or psychologist who participated in the evaluation. The physician shall be, if possible, a board certified psychiatrist. The psychologist shall be licensed and have at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders.

If the professional person in charge, or his or her designee, is the physician who performed the medical evaluation or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a social worker or a registered nurse who participated in the evaluation shall sign the notice of certification.

(Repealed and added by Stats. 1982, Ch. 1598, Sec. 4.)

5252. A notice of certification is required for all persons certified for intensive treatment pursuant to Section 5250 or 5270.15, and shall be in substantially the following form (strike out inapplicable section):

The authorized agency providing evaluation services in the County of ____ has evaluated the condition of:

Name

_____

Address

_____

Age

_____

Sex

_____

Marital status

_____

We the undersigned allege that the above-named person is, as a result of mental disorder or impairment by chronic alcoholism:

(1) A danger to others.

(2) A danger to himself or herself.

(3) Gravely disabled as defined in paragraph (1) of subdivision (h) or subdivision (l) of Section 5008 of the Welfare and Institutions Code.

The specific facts which form the basis for our opinion that the above-named person meets one or more of the classifications indicated above are as follows:

(certifying persons to fill in blanks)_____

_____

_____

_____

_____

[Strike out all inapplicable classifications.]

The above-named person has been informed of this evaluation, and has been advised of the need for, but has not been able or willing to accept treatment on a voluntary basis, or to accept referral to, the following services:

_____
_____
_____
_____
_____
_____
_____
_____

We, therefore, certify the above-named person to receive intensive treatment related to the mental disorder or impairment by chronic alcoholism beginning this ____ day of _____
,
(Month)
19_, in the intensive treatment facility herein named _____.

_____
(Date)

Signed
_____

Signed
_____

Countersigned
_____
(Representing facility)

I hereby state that I delivered a copy of this notice this day to the above-named person and that I informed him or her that unless judicial review is requested a certification review hearing will be held within four days of the date on which the person is certified for a period of intensive treatment and that an attorney or advocate will visit him or her to provide assistance in preparing for the hearing or to answer questions regarding his or her commitment or to provide other assistance. The court has been notified of this certification on this day.

Signed _____

(Amended by Stats. 1988, Ch. 1517, Sec. 3.)

5253. A copy of the certification notice shall be personally delivered to the person certified, the person's attorney, or the attorney or advocate designated in Section 5252. The person certified shall also be asked to designate any person who is to be sent a copy of the certification notice. If the person certified is incapable of making this designation at the time of certification, he

or she shall be asked to designate a person as soon as he or she is capable.

(Amended by Stats. 1983, Ch. 319, Sec. 2.)

5254. The person delivering the copy of the notice of certification to the person certified shall, at the time of delivery, inform the person certified that he or she is entitled to a certification review hearing, to be held within four days of the date on which the person is certified for a period of intensive treatment in accordance with Section 5256 unless judicial review is requested, to determine whether or not probable cause exists to detain the person for intensive treatment related to the mental disorder or impairment by chronic alcoholism. The person certified shall be informed of his or her rights with respect to the hearing, including the right to the assistance of another person to prepare for the hearing or to answer other questions and concerns regarding his or her involuntary detention or both.

(Amended by Stats. 1988, Ch. 1517, Sec. 4.)

5254.1. The person delivering the copy of the notice of certification to the person certified shall, at the time of delivery, inform the person certified of his or her legal right to a judicial review by habeas corpus, and shall explain that term to the person certified, and inform the person of his or her right to counsel, including court-appointed counsel pursuant to Section 5276.

(Repealed and added by Stats. 1982, Ch. 1598, Sec. 4.)

5255. As soon after the certification as practicable, an attorney or patient advocate shall meet with the person certified to discuss the commitment process and to assist the person in preparing for the certification review hearing or to answer questions or otherwise assist the person as is appropriate.

(Repealed and added by Stats. 1982, Ch. 1598, Sec. 4.)

5256. When a person is certified for intensive treatment pursuant to Sections 5250 and 5270.15, a certification review hearing shall be held unless judicial review has been requested as provided in Sections 5275 and 5276. The certification review hearing shall be within four days of the date on which the person is certified for a period of intensive treatment unless postponed by request of the person or his or her attorney or advocate. Hearings may be postponed for 48 hours or, in counties with a population of 100,000 or less, until the next regularly scheduled hearing date.

(Amended by Stats. 1988, Ch. 1517, Sec. 5.)

5256.1. The certification review hearing shall be conducted by either a court-appointed commissioner or a referee, or a certification review hearing officer. The certification review hearing officer shall be either a state qualified administrative law

hearing officer, a medical doctor, a licensed psychologist, a registered nurse, a lawyer, a certified law student, a licensed clinical social worker, or a licensed marriage, family and child counselor. Licensed psychologists, licensed clinical social workers, licensed marriage, family and child counselors, and registered nurses who serve as certification review hearing officers shall have had a minimum of five years experience in mental health. Certification review hearing officers shall be selected from a list of eligible persons unanimously approved by a panel composed of the local mental health director, the county public defender, and the county counsel or district attorney designated by the county board of supervisors. No employee of the county mental health program or of any facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation may serve as a certification review hearing officer.

The location of the certification review hearing shall be compatible with, and least disruptive of, the treatment being provided to the person certified. In addition, hearings conducted by certification review officers shall be conducted at an appropriate place at the facility where the person certified is receiving treatment.

(Amended by Stats. 1987, Ch. 139, Sec. 1.)

5256.2. At the certification review hearing, the evidence in support of the certification decision shall be presented by a person designated by the director of the facility. In addition, either the district attorney or the county counsel may, at his or her discretion, elect to present evidence at the certification review hearing.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5256.3. The person certified shall be present at the certification review hearing unless he or she, with the assistance of his or her attorney or advocate, waives his or her right to be present at a hearing.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5256.4. (a) At the certification review hearing, the person certified shall have the following rights:

(1) Assistance by an attorney or advocate.

(2) To present evidence on his or her own behalf.

(3) To question persons presenting evidence in support of the certification decision.

(4) To make reasonable requests for the attendance of facility employees who have knowledge of, or participated in, the certification decision.

(5) If the person has received medication within 24 hours or such longer period of time as the person conducting the hearing may

designate prior to the beginning of the hearing, the person conducting the hearing shall be informed of that fact and of the probable effects of the medication.

(b) The hearing shall be conducted in an impartial and informal manner in order to encourage free and open discussion by participants. The person conducting the hearing shall not be bound by rules of procedure or evidence applicable in judicial proceedings.

(c) Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the certification hearing, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.

(d) All evidence which is relevant to establishing that the person certified is or is not as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, shall be admitted at the hearing and considered by the hearing officer.

(e) Although resistance to involuntary commitment may be a product of a mental disorder, this resistance shall not, in itself, imply the presence of a mental disorder or constitute evidence that a person meets the criteria of being dangerous to self or others, or gravely disabled.

(Amended by Stats. 1986, Ch. 872, Sec. 3.)

5256.5. If at the conclusion of the certification review hearing the person conducting the hearing finds that there is not probable cause to believe that the person certified is, as a result of a mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person certified may no longer be involuntarily detained. Nothing herein shall prohibit the person from remaining at the facility on a voluntary basis or the facility from providing the person with appropriate referral information concerning mental health services.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5256.6. If at the conclusion of the certification review hearing the person conducting the hearing finds that there is probable cause that the person certified is, as a result of a mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person may be detained for involuntary care, protection, and treatment related to the mental disorder or impairment by chronic alcoholism pursuant to Sections 5250 and 5270.15.

(Amended by Stats. 1988, Ch. 1517, Sec. 6.)

5256.7. The person certified shall be given oral

notification of the decision at the conclusion of the certification review hearing. As soon thereafter as is practicable, the attorney or advocate for the person certified and the director of the facility where the person is receiving treatment shall be provided with a written notification of the decision, which shall include a statement of the evidence relied upon and the reasons for the decision. The attorney or advocate shall notify the person certified of the certification review hearing decision and of his or her rights to file a request for release and to have a hearing on the request before the superior court as set forth in Article 5 (commencing with Section 5275). A copy of the decision and the certification made pursuant to Section 5250 or 5270.15 shall be submitted to the superior court.

(Amended by Stats. 1988, Ch. 1517, Sec. 7.)

5256.8. The requirement that there is a certification review hearing in accordance with this article shall apply only to persons certified for intensive treatment on or after January 1, 1983.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5257. During the period of intensive treatment pursuant to Section 5250 or 5270.15, only if the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, then the person's involuntary detention shall end and the person shall be released. If any other professional person who is authorized to release the person believes the person should be released during the designated period of intensive treatment, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released during the period of intensive treatment only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person certified no longer is, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled. Nothing herein shall prohibit either the person remaining at the facility on a voluntary basis or the facility from providing the person with appropriate referral information concerning mental health services.

A person who has been certified for a period of intensive treatment pursuant to Section 5250 shall be released at the end of 14 days unless the patient either:

(a) Agrees to receive further treatment on a voluntary basis.

(b) Is certified for an additional 14 days of intensive

treatment pursuant to Article 4.5 (commencing with Section 5260).

(c) Is certified for an additional 30 days of intensive treatment pursuant to Article 4.7 (commencing with Section 5270.10).

(d) Is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).

(e) Is the subject of a petition for Postcertification of an Imminently Dangerous Person filed pursuant to Article 6 (commencing with Section 5300).

(Amended by Stats. 1988, Ch. 1517, Sec. 8.)

5258. After the involuntary detention has begun, the total period of detention, including intervening periods of voluntary treatment, shall not exceed the total maximum period during which the person could have been detained, if the person had been detained continuously on an involuntary basis, from the time of initial involuntary detention.

(Amended by Stats. 1988, Ch. 1517, Sec. 9.)

5259. Nothing in this article shall prohibit the professional person in charge of a treatment facility, or his or her designee, from permitting a person certified for intensive treatment to leave the facility for short periods during the person's involuntary additional treatment.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5259.1. Any individual who is knowingly and willfully responsible for detaining a person in violation of the provisions of this article is liable to that person in civil damages.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5259.2. Whenever a county designates two or more facilities to provide treatment, and the person to be treated, his or her family, conservator, or guardian expresses a preference for one of these facilities, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

(Added by Stats. 1982, Ch. 1598, Sec. 4.)

5259.3. (a) Notwithstanding Section 5113, if the provisions of Section 5257 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5257, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the medical

director of the facility or his or her designee described in Section 5257, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of the 14 days pursuant to this article.

(c) The attorney or advocate representing the person, the court-appointed commissioner or referee, the certification review hearing officer conducting the certification review hearing, and the peace officer responsible for the detainment of the person shall not be civilly or criminally liable for any action by a person released at or before the end of 14 days pursuant to this article.

(Amended by Stats. 1985, Ch. 1288, Sec. 8. Effective September 30, 1985.)

Article 4.5. Additional Intensive Treatment of Suicidal Persons

(Heading of Article 4.5 renumbered from Article 3.5 by Stats. 1969, Ch. 722.)

5260. At the expiration of the 14-day period of intensive treatment any person who, as a result of mental disorder or impairment by chronic alcoholism, during the 14-day period or the 72-hour evaluation period, threatened or attempted to take his own life or who was detained for evaluation and treatment because he threatened or attempted to take his own life and who continues to present an imminent threat of taking his own life, may be confined for further intensive treatment pursuant to this article for an additional period not to exceed 14 days.

Such further intensive treatment may occur only under the following conditions:

(a) The professional staff of the agency or facility providing intensive treatment services has analyzed the person's condition and has found that the person presents an imminent threat of taking his own life.

(b) The person has been advised of, but has not accepted, voluntary treatment.

(c) The facility providing additional intensive treatment is equipped and staffed to provide treatment, is designated by the county to provide such intensive treatment, and agrees to admit the person.

(d) The person has, as a result of mental disorder or impairment by chronic alcoholism, threatened or attempted to take his own life during the 14-day period of intensive treatment or the 72-hour evaluation period or was detained for evaluation and treatment because he threatened or attempted to take his own life.

(Added by Stats. 1968, Ch. 1374.)

5261. For a person to be certified under this article, a second notice of certification must be signed by the professional person in charge of the facility providing 14-day intensive treatment under Article 4 (commencing with Section 5250) to the person and by a physician, if possible a board-qualified psychiatrist or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section 5260.

If the professional person in charge is the physician who performed the medical evaluation and finding or a psychologist, the second person to sign may be another physician or psychologist unless one is not available, in which case a social worker or a registered nurse who participated in such evaluation and finding shall sign the notice of certification.

(Amended by Stats. 1978, Ch. 391.)

5262. A second notice of certification for imminently suicidal persons is required for all involuntary 14-day intensive treatment, pursuant to this article, and shall be in substantially the following form:

To the Superior Court of the State of California for the County of ____

The authorized agency providing 14-day intensive treatment, County of ____, has custody of: ____

Name

_____

Address

_____

Age

_____

Sex

_____

Marital status

_____

Religious affiliation

_____

The undersigned allege that the above-named person presents an imminent threat of taking his own life.

This allegation is based upon the following facts:

_____

_____
_____
_____
_____
_____
_____

This allegation is supported by the accompanying affidavits signed by ____.

The above-named person has been informed of this allegation and has been advised of, but has not been able or willing to accept referral to, the following services:

_____
_____
_____
_____
_____
_____
_____
_____
_____

We, therefore, certify the above-named person to receive additional intensive treatment for no more than 14 days beginning this ___ day of _____ ,
(Month)
19__, in the intensive treatment facility herein named _____.

We hereby state that a copy of this notice has been delivered this day to the above-named person and that he has been clearly advised of his continuing legal right to a judicial review by habeas corpus, and this term has been explained to him.

_____
(Date)

Signed

_____

Countersigned

_____

Representing intensive treatment facility

(Added by Stats. 1968, Ch. 1374.)

5263. Copies of the second notice of certification for imminently suicidal persons, as set forth in Section 5262, shall be filed with the court and personally delivered to the person certified. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, and to the facility providing intensive treatment.

The person certified shall also be asked to designate any person who is to be sent a copy of the certification notice. If the person certified is incapable of making such a designation at the time of certification, he or she shall be asked to designate such person as soon as he or she is capable.

(Amended by Stats. 1983, Ch. 319, Sec. 8.)

5264. A certification for imminently suicidal persons shall be for no more than 14 days of intensive treatment, and shall terminate only as soon as, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the individual has improved sufficiently for him to leave, or is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis. If any other professional person who is authorized to release the person, believes the person should be released before 14 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 14 days have elapsed only if the psychiatrist believes, as a result of his or her personal observations, that the individual has improved sufficiently for him or her to leave, or is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis.

Persons who have been certified for 14 days of intensive treatment under this article and to whom Section 5226.1 is not applicable, or with respect to whom the criminal charge has been dismissed under Section 5226.1, shall be released at the end of the 14 days unless any of the following applies:

(a) Patients who agree to receive further treatment on a voluntary basis.

(b) Patients recommended for conservatorship pursuant to Chapter 3 (commencing with Section 5350) of this part.

(c) Patients to whom Article 6 (commencing with Section 5300) of this chapter is applicable.

(Amended by Stats. 1985, Ch. 1288, Sec. 9. Effective September 30, 1985.)

5265. Any individual who is knowingly and willfully responsible for detaining a person for more than 14 days in violation of the provisions of Section 5264 is liable to that person in civil damages.

(Added by Stats. 1968, Ch. 1374.)

5266. Whenever a county designates two or more facilities to provide intensive treatment and the person to be treated, his family, conservator or guardian expresses a preference for one such facility, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

(Added by Stats. 1968, Ch. 1374.)

5267. (a) Notwithstanding Section 5113, if the provisions of Section 5264 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5264, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of 14 days pursuant to this article.

(b) The professional person in charge of the facility providing intensive treatment, his or her designee, the medical director of the facility or his or her designee described in Section 5264, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of 14 days pursuant to this article.

(Amended by Stats. 1985, Ch. 1288, Sec. 10. Effective September 30, 1985.)

5268. Nothing in this article shall prohibit the professional person in charge of an intensive treatment facility, or his designee, from permitting a person certified for intensive treatment to leave the facility for short periods during the person's involuntary intensive treatment.

(Added by Stats. 1968, Ch. 1374.)

Article 4.7. Additional Intensive Treatment

(Article 4.7 added by Stats. 1988, Ch. 1517, Sec. 10. Applicable only in counties complying with procedures prescribed by Section 5270.12.)

5270.10. It is the intent of the Legislature to reduce the number of gravely disabled persons for whom conservatorship petitions are filed and who are placed under the extensive powers and authority of a temporary conservator simply to obtain an additional period of treatment without the belief that a conservator is actually needed and without the intention of proceeding to trial on the conservatorship petition. This change will substantially reduce the number of conservatorship petitions filed and temporary conservatorships granted under this part which do not result in either a trial or a conservatorship.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.12. This article shall be operative only in those counties in which the county board of supervisors, by resolution, authorizes its application and, by resolution, makes a finding that

any additional costs incurred by the county in the implementation of this article are funded either by new funding sufficient to cover the costs incurred by the county resulting from this article, or funds redirected from cost savings resulting from this article, or a combination thereof, so that no current service reductions will occur as a result of the enactment of this article. Compliance with this section shall be monitored by the Department of Mental Health as part of their review and approval of county Short-Doyle plans.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.15. Upon the completion of a 14-day period of intensive treatment pursuant to Section 5250, the person may be certified for an additional period of not more than 30 days of intensive treatment under both of the following conditions:

(a) The professional staff of the agency or facility treating the person has found that the person remains gravely disabled as a result of a mental disorder or impairment by chronic alcoholism.

(b) The person remains unwilling or unable to accept treatment voluntarily.

Any person certified for an additional 30 days pursuant to this article shall be provided a certification review hearing in accordance with Section 5256 unless a judicial review is requested pursuant to Article 5 (commencing with Section 5275).

The professional staff of the agency or facility providing intensive treatment shall analyze the person's condition at intervals of not to exceed 10 days, to determine whether the person continues to meet the criteria established for certification under this section, and shall daily monitor the person's treatment plan and progress. Termination of this certification prior to the 30th day shall be made pursuant to Section 5270.35.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.20. For a person to be certified under this article, a second notice of certification shall be signed by the professional person in charge of the facility providing intensive treatment to the person and by either a physician who shall, if possible, be a board-qualified psychiatrist, or a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. The physician or psychologist who signs shall have participated in the evaluation and finding referred to in subdivision (a) of Section 5270.15.

If the professional person in charge is the physician who performed the medical evaluation and finding, or a psychologist, the second person to sign may be another physician or psychologist, unless one is not available, in which case a social worker or a registered nurse who participated in the evaluation and finding shall sign the notice of certification.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.25. A second notice of certification is required for all involuntary intensive treatment, pursuant to this article, and shall be in substantially the form indicated in Section 5252.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.30. Copies of the second notice of certification as set forth in Section 5270.25, shall be filed with the court and personally delivered to the person certified. A copy shall also be sent to the person's attorney, to the district attorney, to the public defender, if any, and to the facility providing intensive treatment.

The person certified shall also be asked to designate any individual who is to be sent a copy of the certification notice. If the person certified is incapable of making the designation at the time of certification, that person shall be given another opportunity to designate when able to do so.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.35. A certification pursuant to this article shall be for no more than 30 days of intensive treatment, and shall terminate only as soon as the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person no longer meets the criteria for the certification, or is either prepared to accept voluntary treatment on a referral basis or to remain in the facility providing intensive treatment on a voluntary basis. If any other professional person who is authorized to release the person, believes the person should be released before 30 days have elapsed, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released before 30 days have elapsed only if the psychiatrist believes, as a result of his or her personal observations, that the person no longer meets the criteria for certification, or is prepared to accept voluntary treatment on referral or to remain in the facility providing intensive treatment on a voluntary basis.

Persons who have been certified for 30 days of intensive treatment under this article, shall be released at the end of 30 days unless the patient either:

(a) Agrees to receive further treatment on a voluntary basis.

(b) Is the subject of a conservatorship petition filed pursuant to Chapter 3 (commencing with Section 5350).

(c) Is the subject of a petition for Post-certification of an Imminently Dangerous Person filed pursuant to Article 6 (commencing with Section 5300).

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.40. Any individual who is knowingly and willfully responsible for detaining a person for more than 30 days in violation of the provisions of Section 5270.35 is liable to that person in civil damages.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.45. Whenever a county designates two or more facilities to provide intensive treatment and the person to be treated, his or her family, conservator, or guardian expresses a preference for one facility, the professional person certifying the person to be treated shall attempt, if administratively possible, to comply with the preference.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.50. Notwithstanding Section 5113, if the provisions of Section 5270.35 have been met, the professional person in charge of the facility providing intensive treatment, his or her designee, and the professional person directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before or at the end of 30 days pursuant to this article.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.55. (a) Whenever it is contemplated that a gravely disabled person may need to be detained beyond the end of the 14-day period of intensive treatment and prior to proceeding with an additional 30-day certification, the professional person in charge of the facility shall cause an evaluation to be made, based on the patient's current condition and past history, as to whether it appears that the person, even after up to 30 days of additional treatment, is likely to qualify for appointment of a conservator. If the appointment of a conservator appears likely, the conservatorship referral shall be made during the 14-day period of intensive treatment.

(b) If it appears that with up to 30 days additional treatment a person is likely to reconstitute sufficiently to obviate the need for appointment of a conservator, then the person may be certified for the additional 30 days.

(c) Where no conservatorship referral has been made during the 14-day period and where during the 30-day certification it appears that the person is likely to require the appointment of a conservator, then the conservatorship referral shall be made to allow sufficient time for conservatorship investigation and other related procedures. If a temporary conservatorship is obtained, it shall run concurrently with and not consecutively to the 30-day certification period. The conservatorship hearing shall be held by the 30th day of the

certification period. The maximum involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250 and 5270.15 shall be limited to 47 days. Nothing in this section shall prevent a person from excercising his or her right to a hearing as stated in Sections 5275 and 5353.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

5270.65. Nothing in this article shall prohibit the professional person in charge of an intensive treatment facility, or a designee, from permitting a person certified for intensive treatment to leave the facility for short periods during the person's intensive treatment.

(Added by Stats. 1988, Ch. 1517, Sec. 10.)

Article 5. Judicial Review

(Heading of Article 5 renumbered from Article 4 by Stats. 1968, Ch. 1374.)

5275. Every person detained by certification for intensive treatment shall have a right to a hearing by writ of habeas corpus for his or her release after he or she or any person acting on his or her behalf has made a request for release to either (a) the person delivering the copy of the notice of certification to the person certified at the time of the delivery, or (b) to any member of the treatment staff of the facility providing intensive treatment, at any time during the period of intensive treatment pursuant to Section 5250, 5260, or 5270.10.

Any person delivering a copy of the certification notice or any member of the treatment staff to whom a request for release is made shall promptly provide the person making the request for his or her signature or mark a copy of the form set forth below. The person delivering the copy of the certification notice or the member of the treatment staff, as the case may be, shall fill in his or her own name and the date, and, if the person signs by mark, shall fill in the person's name, and shall then deliver the completed copy to the professional person in charge of the intensive treatment facility, or his or her designee, notifying him or her of the request. As soon as possible, the person notified shall inform the superior court for the county in which the facility is located of the request for release.

Any person who intentionally violates this section is guilty of a misdemeanor.

The form for a request for release shall be substantially as follows:

(Name of the facility) ___ day of ____ 19_

I, ____ (member of the treatment staff, or person delivering the copy of the certification notice), have today received a request for the release of ____ (name of patient) from the

undersigned patient on his or her own behalf or from the undersigned person on behalf of the patient.

_____

Signature or mark of patient making request for release

_____

Signature or mark of person making request on behalf of patient

(Amended by Stats. 1988, Ch. 1517, Sec. 11.)

5276. Judicial review shall be in the superior court for the county in which the facility providing intensive treatment is located or in the county in which the 72-hour evaluation was conducted if the patient or a person acting in his or her behalf informs the professional staff of the evaluation facility (in writing) that judicial review will be sought. No patient shall be transferred from the county providing evaluation services to a different county for intensive treatment if the staff of the evaluation facility has been informed in writing that a judicial review will be sought, until the completion of the judicial review. The person requesting to be released shall be informed of his or her right to counsel by the member of the treatment staff and by the court; and, if he or she so elects, the court shall immediately appoint the public defender or other attorney to assist him or her in preparation of a petition for the writ of habeas corpus and, if he or she so elects, to represent him or her in the proceedings. The person shall pay the costs of the legal service if he or she is able.

Reasonable attempts shall be made by the mental health facility to notify family members or any other person designated by the patient, of the time and place of the judicial review, unless the patient requests that this information not be provided. The patient shall be advised by the facility that is treating the patient that he or she has the right to request that this information not be provided.

The court shall either release the person or order an evidentiary hearing to be held within two judicial days after the petition is filed. If the court finds, (a) that the person requesting release is not, as a result of mental disorder or impairment by chronic alcoholism, a danger to others, or to himself or herself, or gravely disabled, (b) that he or she had not been advised of, or had accepted, voluntary treatment, or (c) that the facility providing intensive treatment is not equipped and staffed to provide treatment, or is not designated by the county to provide intensive treatment he or she shall be released immediately.

(Amended by Stats. 1986, Ch. 872, Sec. 4.)

5276.1. The person requesting release may, upon advice of counsel, waive the presence at the evidentiary hearing of the physician, licensed psychologist who meets the requirements of the first paragraph of Section 5251, or other professional person who

certified the petition under Section 5251 and of the physician, or licensed psychologist who meets the requirements of the second paragraph of Section 5251, providing intensive treatment. In the event of such a waiver, such physician, licensed psychologist, or other professional person shall not be required to be present at the hearing if it is stipulated that the certification and records of such physicians, licensed psychologists, or other professional persons concerning the mental condition and treatment of the person regarding release will be received in evidence.

(Amended by Stats. 1980, Ch. 1206, Sec. 2.)

5276.2. In the event that the person, or anyone acting on his or her behalf, withdraws the request for judicial review, a certification review hearing shall be held within four days of the withdrawal of the request, and the procedures in Sections 5255 to 5256.8, inclusive, shall be applicable.

(Added by Stats. 1982, Ch. 1598, Sec. 6.)

5277. A finding under Section 5276 shall not be admissible in evidence in any civil or criminal proceeding without the consent of the person who was the subject of the finding.

(Amended by Stats. 1969, Ch. 722.)

5278. Individuals authorized under this part to detain a person for 72-hour treatment and evaluation pursuant to Article 1 (commencing with Section 5150) or Article 2 (commencing with Section 5200), or to certify a person for intensive treatment pursuant to Article 4 (commencing with Section 5250) or Article 4.5 (commencing with Section 5260) or Article 4.7 (commencing with Section 5270.10) or to file a petition for post-certification treatment for a person pursuant to Article 6 (commencing with Section 5300) shall not be held either criminally or civilly liable for exercising this authority in accordance with the law.

(Amended by Stats. 1988, Ch. 1517, Sec. 12.)

Article 6. Postcertification Procedures for Imminently Dangerous Persons

(Article 6 added by Stats. 1967, Ch. 1667.)

5300. At the expiration of the 14-day period of intensive treatment, a person may be confined for further treatment pursuant to the provisions of this article for an additional period, not to exceed 180 days if one of the following exists:

(a) The person has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental

defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(b) The person had attempted, or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody and who presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

(c) The person had made a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and the person presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

Any commitment to a licensed health facility under this article places an affirmative obligation on the facility to provide treatment for the underlying causes of the person's mental disorder.

Amenability to treatment is not required for a finding that any person is a person as described in subdivisions (a), (b), or (c). Treatment programs need only be made available to these persons. Treatment does not mean that the treatment be successful or potentially successful, and it does not mean that the person must recognize his or her problem and willingly participate in the treatment program.

(Amended by Stats. 1983, Ch. 754, Sec. 2.)

5300.5. For purposes of this article:

(a) "Custody" shall be construed to mean involuntary detainment under the provisions of this part uninterrupted by any period of unconditioned release from a licensed health facility providing involuntary care and treatment.

(b) Conviction of a crime is not necessary for commitment under this article.

(c) Demonstrated danger may be based on assessment of present mental condition, which is based upon a consideration of past behavior of the person within six years prior to the time the person attempted, inflicted, or threatened physical harm upon another, and other relevant evidence.

(Amended by Stats. 1983, Ch. 754, Sec. 2.5.)

5301. At any time during the 14-day intensive treatment period the professional person in charge of the licensed health facility, or his or her designee, may ask the public officer required by Section 5114 to present evidence at proceedings under this article to petition the superior court in the county in which the licensed health facility providing treatment is located for an order requiring such person to undergo an additional period of treatment on the grounds set forth in Section 5300. Such petition shall summarize the facts which support the contention that the person falls within the

standard set forth in Section 5300. The petition shall be supported by affidavits describing in detail the behavior which indicates that the person falls within the standard set forth in Section 5300.

Copies of the petition for postcertification treatment and the affidavits in support thereof shall be served upon the person named in the petition on the same day as they are filed with the clerk of the superior court.

The petition shall be in the following form:

Petition for Postcertification Treatment of a Dangerous Person

I, ____, (the professional person in charge of the ____ intensive treatment facility) (the designee of ____ the professional person in charge of the ____, treatment facility) in which ____ has been under treatment pursuant to the certification by ____ and ____, hereby petition the court for an order requiring ____ to undergo an additional period of treatment, not to exceed 180 days, pursuant to the provisions of Article 6 (commencing with Section 5300) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code. Such petition is based upon my allegation that (a) ____ has attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation, and that, by reason of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others, or that (b) ____ had attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and that he or she presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others, or that (c) ____ had made a serious threat of substantial physical harm upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and that he or she presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

My allegation is based upon the following facts:

_____
_____
_____
_____
_____
_____
_____
_____
_____
_____

_____

This allegation is supported by the accompanying affidavits signed by ____.

Signed

_____

The courts may receive the affidavits in evidence and may allow the affidavits to be read to the jury and the contents thereof considered in rendering a verdict, unless counsel for the person named in the petition subpoenas the treating professional person. If such treating professional person is subpoenaed to testify, the public officer, pursuant to Section 5114, shall be entitled to a continuance of the hearing or trial.

(Amended by Stats. 1983, Ch. 754, Sec. 2.7.)

5302. At the time of filing of a petition for postcertification treatment the court shall advise the person named in the petition of his right to be represented by an attorney and of his right to demand a jury trial. The court shall assist him in finding an attorney, or, if need be, appoint an attorney if the person is unable to obtain counsel. The court shall appoint the public defender or other attorney to represent the person named in the petition if the person is financially unable to provide his own attorney. The attorney shall advise the person of his rights in relation to the proceeding and shall represent him before the court.

(Amended by Stats. 1970, Ch. 1627.)

5303. The court shall conduct the proceedings on the petition for postcertification treatment within four judicial days of the filing of the petition and in accordance with constitutional guarantees of due process of law and the procedures required under Section 13 of Article 1 of the Constitution of the State of California.

If at the time of the hearing the person named in the petition requests a jury trial, such trial shall commence within 10 judicial days of the filing of the petition for postcertification treatment unless the person's attorney requests a continuance, which may be for a maximum of 10 additional judicial days. The decison of the jury must be unanimous in order to support the finding of facts required by Section 5304.

Until a final decision on the merits by the trial court the person named in the petition shall continue to be treated in the intensive treatment facility until released by order of the superior court having jurisdiction over the action, or unless the petition for postcertification treatment is withdrawn. If no decision has been made within 30 days after the filing of the petition, not including extensions of time requested by the person's attorney, the person shall be released.

(Amended by Stats. 1968, Ch. 1374.)

5303.1. For the purposes of any hearing or jury trial held pursuant to this article, the judge of the court in which such hearing or trial is held may appoint a psychiatrist or psychologist with forensic skills. Such psychiatrist or psychologist shall personally examine the person named in the petition. Such a forensic psychiatrist or psychologist shall testify at the hearing or jury trial concerning the mental condition of the person named in the petition and the threat of substantial physical harm to other beings such person presents, and neither the professional person or his designee who petitioned for the additional period of treatment nor of the physicians providing intensive treatment shall be required, unless the person named in the petition chooses to subpoena such persons, to be present at the hearing or jury trial.

If a psychiatrist or psychologist with forensic skills is not appointed pursuant to this section the person named in the petition may, upon advice of counsel, waive the presence at the hearing or at the jury trial of the professional person or his designee who petitioned for the additional period of treatment and the physicians providing intensive treatment. In the event of such waiver, such professional person, his designee, or other physicians shall not be required to be present at the hearing if it is stipulated that the certification, supporting affidavit and records of such physicians concerning the mental condition of the person named in the petition will be received in evidence.

(Amended by Stats. 1975, Ch. 960.)

5304. (a) The court shall remand a person named in the petition for postcertification treatment to the custody of the State Department of Mental Health or to a licensed health facility designated by the county of residence of that person for a further period of intensive treatment not to exceed 180 days from the date of court judgment, if the court or jury finds that the person named in the petition for postcertification treatment has done any of the following:

(1) Attempted, inflicted, or made a serious threat of substantial physical harm upon the person of another after having been taken into custody, and while in custody, for evaluation and treatment, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(2) Attempted or inflicted physical harm upon the person of another, that act having resulted in his or her being taken into custody, and who, as a result of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others.

(3) Expressed a serious threat of substantial physical harm

upon the person of another within seven days of being taken into custody, that threat having at least in part resulted in his or her being taken into custody, and who presents, as a result of mental disorder or mental defect, a demonstrated danger of inflicting substantial physical harm upon others.

(b) The person shall be released from involuntary treatment at the expiration of 180 days unless the public officer, pursuant to Section 5114, files a new petition for postcertification treatment on the grounds that he or she has attempted, inflicted, or made a serious threat of substantial physical harm upon another during his or her period of postcertification treatment, and he or she is a person who by reason of mental disorder or mental defect, presents a demonstrated danger of inflicting substantial physical harm upon others. The new petition for postcertification treatment shall be filed in the superior court in which the original petition for postcertification was filed.

(c) The county from which the person was remanded shall bear any transportation costs incurred pursuant to this section.

(Repealed and added by Stats. 1983, Ch. 754, Sec. 4.)

5305. (a) Any person committed pursuant to Section 5300 may be placed on outpatient status if all of the following conditions are satisfied:

(1) In the evaluation of the superintendent or professional person in charge of the licensed health facility, the person named in the petition will no longer be a danger to the health and safety of others while on outpatient status and will benefit from outpatient status.

(2) The county mental health director advises the court that the person named in the petition will benefit from outpatient status and identifies an appropriate program of supervision and treatment.

(b) After actual notice to the public officer, pursuant to Section 5114, and to counsel of the person named in the petition, to the court and to the county mental health director, the plan for outpatient treatment shall become effective within five judicial days unless a court hearing on that action is requested by any of the aforementioned parties, in which case the release on outpatient status shall not take effect until approved by the court after a hearing. This hearing shall be held within five judicial days of the actual notice required by this subdivision.

(c) The county mental health director shall be the outpatient supervisor of persons placed on outpatient status under provisions of this section. The county mental health director may delegate such outpatient supervision responsibility to a designee.

(d) The outpatient treatment supervisor shall, where the person is placed on outpatient status at least three months, submit at 90-day intervals to the court, the public officer, pursuant to Section

5114, and counsel of the person named in the petition and to the supervisor or professional person in charge of the licensed health facility, where appropriate, a report setting forth the status and progress of the person named in the petition. Notwithstanding the length of the outpatient status, a final report shall be submitted by the outpatient treatment supervisor at the conclusion of the 180-day commitment setting forth the status and progress of the person.

(Amended by Stats. 1982, Ch. 1563, Sec. 5.)

5306. (a) Notwithstanding Section 5113, if the provisions of Section 5309 have been met, the superintendent, the professional person in charge of the hospital providing 90-day involuntary treatment, the medical director of the facility or his or her designee described in subdivision (a) of Section 5309, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released before the end of a 90-day period pursuant to this article.

(b) The superintendent, the professional person in charge of the hospital providing 90-day involuntary treatment, the medical director of the facility or his or her designee described in subdivision (a) of Section 5309, and the psychiatrist directly responsible for the person's treatment shall not be held civilly or criminally liable for any action by a person released at the end of a 90-day period pursuant to this article.

(Amended by Stats. 1985, Ch. 1288, Sec. 11. Effective September 30, 1985.)

5306.5. If at any time during the outpatient period, the outpatient treatment supervisor is of the opinion that the person receiving treatment requires extended inpatient treatment or refuses to accept further outpatient treatment and supervision, the county mental health director shall notify the superior court in either the county which approved outpatient status or in the county where outpatient treatment is being provided of such opinion by means of a written request for revocation of outpatient status. The county mental health director shall furnish a copy of this request to the counsel of the person named in the request for revocation and to the public officer, pursuant to Section 5114, in both counties if the request is made in the county of treatment, rather than the county of commitment.

Within 15 judicial days, the court where the request was filed shall hold a hearing and shall either approve or disapprove the request for revocation of outpatient status. If the court approves the request for revocation, the court shall order that the person be confined in a state hospital or other treatment facility approved by the county mental health director. The court shall transmit a copy of its order to the county mental health director or a designee and to the Director of Mental Health. Where the county of treatment and the

county of commitment differ and revocation occurs in the county of treatment, the court shall enter the name of the committing county and its case number on the order of revocation and shall send a copy of the order to the committing court and the public officer, pursuant to Section 5114, and counsel of the person named in the request for revocation in the county of commitment.

(Added by Stats. 1982, Ch. 1563, Sec. 6.)

5307. If at any time during the outpatient period the public officer, pursuant to Section 5114, is of the opinion that the person is a danger to the health and safety of others while on outpatient status, the public officer, pursuant to Section 5114, may petition the court for a hearing to determine whether the person shall be continued on outpatient status. Upon receipt of the petition, the court shall calendar the case for further proceedings within 15 judicial days and the clerk shall notify the person, the county mental health director, and the attorney of record for the person of the hearing date. Upon failure of the person to appear as noticed, if a proper affidavit of service and advisement has been filed with the court, the court may issue a body attachment for such person. If, after a hearing in court the judge determines that the person is a danger to the health and safety of others, the court shall order that the person be confined in a state hospital or other treatment facility which has been approved by the county mental health director.

(Added by Stats. 1982, Ch. 1563, Sec. 7.)

5308. Upon the filing of a request for revocation of outpatient status under Section 5306.5 or 5307 and pending the court's decision on revocation, the person subject to revocation may be confined in a state hospital or other treatment facility by the county mental health director when it is the opinion of that director that the person will now be a danger to self or to another while on outpatient status and that to delay hospitalization until the revocation hearing would pose a demonstrated danger of harm to the person or to another. Upon the request of the county mental health director or a designee, a peace officer shall take, or cause to be taken, the person into custody and transport the person to a treatment facility for hospitalization under this section. The county mental health director shall notify the court in writing of the admission of the person to inpatient status and of the factual basis for the opinion that such immediate return to inpatient treatment was necessary. The court shall supply a copy of these documents to the public officer, pursuant to Section 5114, and counsel of the person subject to revocation.

A person hospitalized under this section shall have the right to judicial review of the detention in the manner prescribed in Article 5 (commencing with Section 5275) of Chapter 2 and to an explanation of rights in the manner prescribed in Section 5252.1.

Nothing in this section shall prevent hospitalization pursuant to the provisions of Section 5150, 5250, 5350, or 5353.

A person whose confinement in a treatment facility under Section 5306.5 or 5307 is approved by the court shall not be released again to outpatient status unless court approval is obtained under Section 5305.

(Added by Stats. 1982, Ch. 1563, Sec. 8.)

5309. (a) Nothing in this article shall prohibit the superintendent or professional person in charge of the hospital in which the person is being involuntarily treated from releasing him or her from treatment prior to the expiration of the commitment period when, the psychiatrist directly responsible for the person's treatment believes, as a result of his or her personal observations, that the person being involuntarily treated no longer constitutes a demonstrated danger of substantial physical harm to others. If any other professional person who is authorized to release the person, believes the person should be released prior to the expiration of the commitment period, and the psychiatrist directly responsible for the person's treatment objects, the matter shall be referred to the medical director of the facility for the final decision. However, if the medical director is not a psychiatrist, he or she shall appoint a designee who is a psychiatrist. If the matter is referred, the person shall be released prior to the expiration of the commitment period only if the psychiatrist making the final decision believes, as a result of his or her personal observations, that the person being involuntarily treated no longer constitutes a demonstrated danger of substantial physical harm to others.

(b) After actual notice to the public officer, pursuant to Section 5114, and to counsel of the person named in the petition, to the court, and to the county mental health director, the plan for unconditional release shall become effective within five judicial days unless a court hearing on that action is requested by any of the aforementioned parties, in which case the unconditional release shall not take effect until approved by the court after a hearing. This hearing shall be held within five judicial days of the actual notice required by this subdivision.

(Amended by Stats. 1985, Ch. 1288, Sec. 12. Effective September 30, 1985.)

Article 7. Legal and Civil Rights of Persons Involuntarily Detained

(Article 7 added by Stats. 1967, Ch. 1667.)

5325. Each person involuntarily detained for evaluation or treatment under provisions of this part, each person admitted as a voluntary patient for psychiatric evaluation or treatment to any

health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered, and each mentally retarded person committed to a state hospital pursuant to Article 5 (commencing with Section 6500) of Chapter 2 of Part 2 of Division 6 shall have the following rights, a list of which shall be prominently posted in the predominant languages of the community and explained in a language or modality accessible to the patient in all facilities providing such services and otherwise brought to his or her attention by such additional means as the Director of Mental Health may designate by regulation:

(a) To wear his or her own clothes; to keep and use his or her own personal possessions including his or her toilet articles; and to keep and be allowed to spend a reasonable sum of his or her own money for canteen expenses and small purchases.

(b) To have access to individual storage space for his or her private use.

(c) To see visitors each day.

(d) To have reasonable access to telephones, both to make and receive confidential calls or to have such calls made for them.

(e) To have ready access to letterwriting materials, including stamps, and to mail and receive unopened correspondence.

(f) To refuse convulsive treatment including, but not limited to, any electroconvulsive treatment, any treatment of the mental condition which depends on the induction of a convulsion by any means, and insulin coma treatment.

(g) To refuse psychosurgery. Psychosurgery is defined as those operations currently referred to as lobotomy, psychiatric surgery, and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of any of the following:

(1) Modification or control of thoughts, feelings, actions, or behavior rather than the treatment of a known and diagnosed physical disease of the brain.

(2) Modification of normal brain function or normal brain tissue in order to control thoughts, feelings, actions, or behavior.

(3) Treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions, or behavior.

Psychosurgery does not include prefrontal sonic treatment wherein there is no destruction of brain tissue. The Director of Mental Health shall promulgate appropriate regulations to assure adequate protection of patients' rights in such treatment.

(h) To see and receive the services of a patient advocate who has no direct or indirect clinical or administrative responsibility for the person receiving mental health services.

(i) Other rights, as specified by regulation.

Each patient shall also be given notification in a language or modality accessible to the patient of other constitutional and

statutory rights which are found by the State Department of Mental Health to be frequently misunderstood, ignored, or denied.

Upon admission to a facility each patient shall immediately be given a copy of a State Department of Mental Health prepared patients' rights handbook.

The State Department of Mental Health shall prepare and provide the forms specified in this section and in Section 5157.

The rights specified in this section may not be waived by the person's parent, guardian, or conservator.

(Amended by Stats. 1981, Ch. 841, Sec. 2.)

5325.1. Persons with mental illness have the same legal rights and responsibilities guaranteed all other persons by the Federal Constitution and laws and the Constitution and laws of the State of California, unless specifically limited by federal or state law or regulations. No otherwise qualified person by reason of having been involuntarily detained for evaluation or treatment under provisions of this part or having been admitted as a voluntary patient to any health facility, as defined in Section 1250 of the Health and Safety Code, in which psychiatric evaluation or treatment is offered shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity, which receives public funds.

It is the intent of the legislature that persons with mental illness shall have rights including, but not limited to, the following:

(a) A right to treatment services which promote the potential of the person to function independently. Treatment should be provided in ways that are least restrictive of the personal liberty of the individual.

(b) A right to dignity, privacy, and humane care.

(c) A right to be free from harm, including unnecessary or excessive physical restraint, isolation, medication, abuse, or neglect. Medication shall not be used as punishment, for the convenience of staff, as a substitute for program, or in quantities that interfere with the treatment program.

(d) A right to prompt medical care and treatment.

(e) A right to religious freedom and practice.

(f) A right to participate in appropriate programs of publicly supported education.

(g) A right to social interaction and participation in community activities.

(h) A right to physical exercise and recreational opportunities.

(i) A right to be free from hazardous procedures.

(Added by Stats. 1978, Ch. 1320.)

5325.2. Any person who is subject to detention pursuant to

Section 5150, 5250, 5260, or 5270.15 shall have the right to refuse treatment with antipsychotic medication subject to provisions set forth in this chapter.

(Added by Stats. 1991, Ch. 681, Sec. 2.)

5326. The professional person in charge of the facility or his or her designee may, for good cause, deny a person any of the rights under Section 5325, except under subdivisions (g) and (h) and the rights under subdivision (f) may be denied only under the conditions specified in Section 5326.7. To ensure that these rights are denied only for good cause, the Director of Mental Health shall adopt regulations specifying the conditions under which they may be denied. Denial of a person's rights shall in all cases be entered into the person's treatment record.

(Amended by Stats. 1981, Ch. 841, Sec. 3.)

5326.1. Quarterly, each local mental health director shall furnish to the Director of Mental Health, the facility reports of the number of persons whose rights were denied and the right or rights which were denied. The content of the reports from facilities shall enable the local mental health director and Director of Mental Health to identify individual treatment records, if necessary, for further analysis and investigation. These quarterly reports, except for the identity of the person whose rights are denied, shall be available, upon request, to Members of the State Legislature, or a member of a county board of supervisors.

Notwithstanding any other provision of law, information pertaining to denial of rights contained in the person's treatment record shall be made available, on request, to the person, his or her attorney, his or her conservator or guardian, the local mental health director, or his or her designee, or the Patient's Rights Office of the State Department of Mental Health. The information may include consent forms, required documentation for convulsive treatment, documentation regarding the use of restraints and seclusion, physician's orders, nursing notes, and involuntary detention and conservatorship papers. The information, except for the identity of the person whose rights are denied, shall be made available to the Members of the State Legislature or a member of a county board of supervisors.

(Amended by Stats. 1983, Ch. 101, Sec. 169.)

5326.15. (a) Quarterly, any doctor or facility which administers convulsive treatments or psychosurgery, shall report to the local mental health director, who shall transmit a copy to the Director of Mental Health, the number of persons who received such treatments wherever administered, in each of the following categories:

(1) Involuntary patients who gave informed consent.

(2) Involuntary patients who were deemed incapable of giving informed consent and received convulsive treatment against their will.

(3) Voluntary patients who gave informed consent.

(4) Voluntary patients deemed incapable of giving consent.

(b) Quarterly, the Director of Mental Health shall forward to the Medical Board of California any records or information received from such reports indicating violation of the law, and the regulations which have been adopted thereto.

(Amended by Stats. 1992, Ch. 713, Sec. 41. Effective September 15, 1992.)

5326.2. To constitute voluntary informed consent, the following information shall be given to the patient in a clear and explicit manner:

(a) The reason for treatment, that is, the nature and seriousness of the patient's illness, disorder or defect.

(b) The nature of the procedures to be used in the proposed treatment, including its probable frequency and duration.

(c) The probable degree and duration (temporary or permanent) of improvement or remission, expected with or without such treatment.

(d) The nature, degree, duration, and the probability of the side effects and significant risks, commonly known by the medical profession, of such treatment, including its adjuvants, especially noting the degree and duration of memory loss (including its irreversibility) and how and to what extent they may be controlled, if at all.

(e) That there exists a division of opinion as to the efficacy of the proposed treatment, why and how it works and its commonly known risks and side effects.

(f) The reasonable alternative treatments, and why the physician is recommending this particular treatment.

(g) That the patient has the right to accept or refuse the proposed treatment, and that if he or she consents, has the right to revoke his or her consent for any reason, at any time prior to or between treatments.

(Added by Stats. 1976, Ch. 1109.)

5326.3. The State Department of Mental Health shall promulgate a standard written consent form, setting forth clearly and in detail the matters listed in Section 5326.2, and such further information with respect to each item as deemed generally appropriate to all patients.

The treating physician shall utilize the standard written consent form and in writing supplement it with those details which pertain to the particular patient being treated.

(Amended by Stats. 1977, Ch. 1252.)

5326.4. The treating physician shall then present to the patient the supplemented form specified under Section 5326.3 and orally, clearly, and in detail explain all of the above information to the patient. The treating physician shall then administer the execution by the patient of the total supplemented written consent form, which shall be dated and witnessed.

The fact of the execution of such written consent form and of the oral explanation shall be entered into the patient's treatment record, as shall be a copy of the consent form itself. Should entry of such latter information into the patient's treatment record be deemed by any court an unlawful invasion of privacy, then such consent form shall be maintained in a confidential manner and place.

The consent form shall be available to the person, and to his or her attorney, guardian, and conservator and, if the patient consents, to a responsible relative of the patient's choosing.

(Amended by Stats. 1976, Ch. 1109.)

5326.5. (a) For purposes of this chapter, "written informed consent" means that a person knowingly and intelligently, without duress or coercion, clearly and explicitly manifests consent to the proposed therapy to the treating physician and in writing on the standard consent form prescribed in Section 5326.4.

(b) The physician may urge the proposed treatment as the best one, but may not use, in an effort to gain consent, any reward or threat, express or implied, nor any other form of inducement or coercion, including, but not limited to, placing the patient in a more restricted setting, transfer of the patient to another facility, or loss of the patient's hospital privileges. Nothing in this subdivision shall be construed as in conflict with Section 5326.2. No one shall be denied any benefits for refusing treatment.

(c) A person confined shall be deemed incapable of written informed consent if such person cannot understand, or knowingly and intelligently act upon, the information specified in Section 5326.2.

(d) A person confined shall not be deemed incapable of refusal solely by virtue of being diagnosed as a mentally ill, disordered, abnormal, or mentally defective person.

(e) Written informed consent shall be given only after 24 hours have elapsed from the time the information in Section 5326.2 has been given.

(Amended by Stats. 1976, Ch. 1109.)

5326.55. Persons who serve on review committees shall not otherwise be personally involved in the treatment of the patient whose case they are reviewing.

(Added by Stats. 1976, Ch. 1109.)

5326.6. Psychosurgery, wherever administered, may be

performed only if:

(a) The patient gives written informed consent to the psychosurgery.

(b) A responsible relative of the person's choosing and with the person's consent, and the guardian or conservator if there is one, has read the standard consent form as defined in Section 5326.4 and has been given by the treating physician the information required in Section 5326.2. Should the person desire not to inform a relative or should such chosen relative be unavailable this requirement is dispensed with.

(c) The attending physician gives adequate documentation entered in the patient's treatment record of the reasons for the procedure, that all other appropriate treatment modalities have been exhausted and that this mode of treatment is definitely indicated and is the least drastic alternative available for the treatment of the patient at the time. Such statement in the treatment record shall be signed by the attending and treatment physician or physicians.

(d) Three physicians, one appointed by the facility and two appointed by the local mental health director, two of whom shall be either board-certified or eligible psychiatrists or board-certified or eligible neurosurgeons, have personally examined the patient and unanimously agree with the attending physicians' determinations pursuant to subdivision (c) and agree that the patient has the capacity to give informed consent. Such agreement shall be documented in the patient's treatment record and signed by each such physician.

Psychosurgery shall in no case be performed for at least 72 hours following the patient's written consent. Under no circumstances shall psychosurgery be performed on a minor.

As used in this section and Sections 5326.4 and 5326.7 "responsible relative" includes the spouse, parent, adult child, or adult brother or sister of the person.

The giving of consent to any of the treatments covered by this chapter may not be construed as a waiver of the right to refuse treatment at a future time. Consent may be withdrawn at any time. Such withdrawal of consent may be either oral or written and shall be given effect immediately.

Refusal of consent to undergo a psychosurgery shall be entered in the patient's treatment record.

(Added by Stats. 1976, Ch. 1109.)

5326.7. Subject to the provisions of subdivision (f) of Section 5325, convulsive treatment may be administered to an involuntary patient, including anyone under guardianship or conservatorship, only if:

(a) The attending or treatment physician enters adequate documentation in the patient's treatment record of the reasons for the procedure, that all reasonable treatment modalities have been carefully considered, and that the treatment is definitely indicated

and is the least drastic alternative available for this patient at this time. Such statement in the treatment record shall be signed by the attending and treatment physician or physicians.

(b) A review of the patient's treatment record is conducted by a committee of two physicians, at least one of whom shall have personally examined the patient. One physician shall be appointed by the facility and one shall be appointed by the local mental health director. Both shall be either board-certified or board-eligible psychiatrists or board-certified or board-eligible neurologists. This review committee must unanimously agree with the treatment physician's determinations pursuant to subdivision (a). Such agreement shall be documented in the patient's treatment record and signed by both physicians.

(c) A responsible relative of the person's choosing and the person's guardian or conservator, if there is one, have been given the oral explanation by the attending physician as required by Section 5326. 2. Should the person desire not to inform a relative or should such chosen relative be unavailable, this requirement is dispensed with.

(d) The patient gives written informed consent as defined in Section 5326.5 to the convulsive treatment. Such consent shall be for a specified maximum number of treatments over a specified maximum period of time not to exceed 30 days, and shall be revocable at any time before or between treatments. Such withdrawal of consent may be either oral or written and shall be given effect immediately. Additional treatments in number or time, not to exceed 30 days, shall require a renewed written informed consent.

(e) The patient's attorney, or if none, a public defender appointed by the court, agrees as to the patient's capacity or incapacity to give written informed consent and that the patient who has capacity has given written informed consent.

(f) If either the attending physician or the attorney believes that the patient does not have the capacity to give a written informed consent, then a petition shall be filed in superior court to determine the patient's capacity to give written informed consent. The court shall hold an evidentiary hearing after giving appropriate notice to the patient, and within three judicial days after the petition is filed. At such hearing the patient shall be present and represented by legal counsel. If the court deems the above-mentioned attorney to have a conflict of interest, such attorney shall not represent the patient in this proceeding.

(g) If the court determines that the patient does not have the capacity to give written informed consent, then treatment may be performed upon gaining the written informed consent as defined in Sections 5326.2 and 5326.5 from the responsible relative or the guardian or the conservator of the patient.

(h) At any time during the course of treatment of a person who has been deemed incompetent, that person shall have the right to

claim regained competency. Should he do so, the person's competency must be reevaluated according to subdivisions (e), (f), and (g).

(Added by Stats. 1976, Ch. 1109.)

5326.75. Convulsive treatment for all other patients including but not limited to those voluntarily admitted to a facility, or receiving the treatment in a physician's office, clinic or private home, may be administered only if:

(a) The requirements of subdivisions (a), (c), and (d) of Section 5326.7 are met.

(b) A board-certified or board-eligible psychiatrist or a board-certified or board-eligible neurologist other than the patient's attending or treating physician has examined the patient and verifies that the patient has the capacity to give and has given written informed consent. Such verification shall be documented in the patient's treatment record and signed by the treating physician.

(c) If there is not the verification required by subdivision (b) of this section or if the patient has not the capacity to give informed consent, then subdivisions (b), (e), (f), (g), and (h) of Section 5326.7 shall also be met.

(Added by Stats. 1976, Ch. 1109.)

5326.8. Under no circumstances shall convulsive treatment be performed on a minor under 12 years of age. Persons 16 and 17 years of age shall personally have and exercise the rights under this article.

Persons 12 years of age and over, and under 16, may be administered convulsive treatment only if all the other provisions of this law are complied with and in addition:

(a) It is an emergency situation and convulsive treatment is deemed a lifesaving treatment.

(b) This fact and the need for and appropriateness of the treatment are unanimously certified to by a review board of three board-eligible or board-certified child psychiatrists appointed by the local mental health director.

(c) It is otherwise performed in full compliance with regulations promulgated by the Director of Mental Health under Section 5326.95.

(d) It is thoroughly documented and reported immediately to the Director of Mental Health.

(Amended by Stats. 1977, Ch. 1252.)

5326.85. No convulsive treatment shall be performed if the patient, whether admitted to the facility as a voluntary or involuntary patient, is deemed to be able to give informed consent and refuses to do so. The physician shall indicate in the treatment record that the treatment was refused despite the physician's advice and that he has explained to the patient the patient's responsibility

for any untoward consequences of his refusal.

(Added by Stats. 1976, Ch. 1109.)

5326.9. (a) Any alleged or suspected violation of the rights described in Chapter 2 (commencing with Section 5150) shall be investigated by the local director of mental health, or his or her designee. Violations of Sections 5326.2 to 5326.8, inclusive, shall also be investigated by the Director of Mental Health, or his or her designee. If it is determined by the local director of mental health or Director of Mental Health that a right has been violated, a formal notice of violation shall be issued.

(b) Either the local director of mental health or the Director of Mental Health upon issuing a notice of violation may take any or all of the following action:

(1) Assign a specified time period during which the violation shall be corrected.

(2) Referral to the Medical Board of California or other professional licensing agency. Such board shall investigate further, if warranted, and shall subject the individual practitioner to any penalty the board finds necessary and is authorized to impose.

(3) Revoke a facility's designation and authorization under Section 5404 to evaluate and treat persons detained involuntarily.

(4) Refer any violation of law to a local district attorney or the Attorney General for prosecution in any court with jurisdiction.

(c) Any physician who intentionally violates Sections 5326.2 to 5326.8, inclusive, shall be subject to a civil penalty of not more than five thousand dollars ($5,000) for each violation. Such penalty may be assessed and collected in a civil action brought by the Attorney General in a superior court. Such intentional violation shall be grounds for revocation of license.

(d) Any person or facility found to have knowingly violated the provisions of the first paragraph of Section 5325.1 or to have denied without good cause any of the rights specified in Section 5325 shall pay a civil penalty, as determined by the court, of fifty dollars ($50) per day during the time in which the violation is not corrected, commencing on the day on which a notice of violation was issued, not to exceed one thousand dollars ($1,000), for each and every violation, except that any liability under this provision shall be offset by an amount equal to a fine or penalty imposed for the same violation under the provisions of Sections 1423 to 1425, inclusive, or 1428 of the Health and Safety Code. These penalties shall be deposited in the general fund of the county in which the violation occurred. The local district attorney or the Attorney General shall enforce this section in any court with jurisdiction. Where the State Department of Health Services, under the provisions of Sections 1423 to 1425, inclusive, of the Health and Safety Code, determines that no violation has occurred, the provisions of paragraph (4) of subdivision

(b) shall not apply.

(e) The remedies provided by this subdivision shall be in addition to and not in substitution for any other remedies which an individual may have under law.

(Amended by Stats. 1989, Ch. 886, Sec. 103.)

5326.91. In any facility in which convulsive treatment is performed on a person whether admitted to the facility as an involuntary or voluntary patient, the facility will designate a qualified committee to review all such treatments and to verify the appropriateness and need for such treatment. The local mental health director shall establish a postaudit review committee for convulsive treatments administered anywhere other than in any facility as defined in Section 1250 of the Health and Safety Code in which psychiatric evaluation or treatment is offered. Records of these committees will be subject to availability in the same manner as are the records of other hospital utilization and audit committees and to such other regulations as are promulgated by the Director of Mental Health. Persons serving on such review committees will enjoy the same immunities as other persons serving on utilization, peer review, and audit committees of health care facilities.

(Amended by Stats. 1977, Ch. 1252.)

5326.95. The Director of Mental Health shall adopt regulations to carry out the provisions of this chapter, including standards defining excessive use of convulsive treatment which shall be developed in consultation with the conference of local mental health directors.

(Amended by Stats. 1977, Ch. 1252.)

5327. Every person involuntarily detained under provisions of this part or under certification for intensive treatment or postcertification treatment in any public or private mental institution or hospital, including a conservatee placed in any medical, psychiatric or nursing facility, shall be entitled to all rights set forth in this part and shall retain all rights not specifically denied him under this part.

(Added by Stats. 1967, Ch. 1667.)

5328. All information and records obtained in the course of providing services under Division 4 (commencing with Section 4000), Division 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to either voluntary or involuntary recipients of services shall be confidential. Information and records obtained in the course of providing similar services to either voluntary or involuntary recipients prior to 1969 shall also be confidential.

Information and records shall be disclosed only in any of the following cases:

(a) In communications between qualified professional persons in the provision of services or appropriate referrals, or in the course of conservatorship proceedings. The consent of the patient, or his or her guardian or conservator shall be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's degree in social work, who is in charge of the patient, designates persons to whom information or records may be released, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(c) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.

(d) If the recipient of services is a minor, ward, or conservatee, and his or her parent, guardian, guardian ad litem, or conservator designates, in writing, persons to whom records or information may be disclosed, except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(e) For research, provided that the Director of Mental Health or the Director of Developmental Services designates by regulation, rules for the conduct of research and requires such research to be first reviewed by the appropriate institutional review board or boards. The rules shall include, but need not be limited to, the requirement that all researchers shall sign an oath of confidentiality as follows:

_____

Date

As a condition of doing research concerning persons who have received services from ____ (fill in the facility, agency or person), I, ____, agree to obtain the prior informed consent of such persons who have received services to the maximum degree possible as determined by the appropriate institutional review board or boards for protection of human subjects reviewing my research, and I further agree not to divulge any information obtained in the course of such research to unauthorized persons, and not to publish or otherwise make public any information regarding persons who have received services such that the person who received services is identifiable.

I recognize that the unauthorized release of confidential information may make me subject to a civil action under provisions of the Welfare and Institutions Code.

(f) To the courts, as necessary to the administration of justice.

(g) To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.

(h) To the Senate Rules Committee or the Assembly Rules Committee for the purposes of legislative investigation authorized by such committee.

(i) If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.

(j) To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that when the patient is unable to sign such release, the staff of the facility, upon satisfying itself of the identity of the attorney, and of the fact that the attorney does represent the interests of the patient, may release all information and records relating to the patient except that nothing in this article shall be construed to compel a physician, psychologist, social worker, nurse, attorney, or other professional person to reveal information which has been given to him or her in confidence by members of a patient's family.

(k) Upon written agreement by a person previously confined in or otherwise treated by a facility, the professional person in charge of the facility or his or her designee may release any information, except information which has been given in confidence by members of the person's family, requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime if the professional person in charge of the facility determines that such information is relevant to the evaluation. The agreement shall only be operative until sentence is passed on the crime of which the person was convicted. The confidential information released pursuant to this subdivision shall be transmitted to the court separately from the probation report and shall not be placed in the probation report. The confidential information shall remain confidential except for purposes of sentencing. After sentencing, the confidential information shall be sealed.

(l) Between persons who are trained and qualified to serve on "multidisciplinary personnel" teams pursuant to subdivision (d) of Section 18951. The information and records sought to be disclosed shall be relevant to the prevention, identification, management, or treatment of an abused child and his or her parents pursuant to Chapter 11 (commencing with Section 18950) of Part 6 of Division 9.

(m) To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad

litem. The client or guardian ad litem, whoever entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to an approved advocate.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

(r) When the patient, in the opinion of his or her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim or victims, then any of the information or records specified in this section may be released to that person or persons and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person or persons. For purposes of this subdivision, "psychotherapist" means anyone so defined within Section 1010 of the Evidence Code.

(s) To persons serving on an interagency case management council established in compliance with Section 5606.6 to the extent necessary to perform its duties. This council shall attempt to obtain the consent of the client. If this consent is not given by the client, the council shall justify in the client's chart why these records are necessary for the work of the council.

The amendment of subdivision (d) enacted at the 1970 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the preexisting law.

(Amended by Stats. 1991, Ch. 534, Sec. 6.)

5328.01. Notwithstanding Section 5328, all information and records made confidential under the first paragraph of Section 5328 shall also be disclosed to governmental law enforcement agencies

investigating evidence of a crime where the records relate to a patient who is confined or has been confined as a mentally disordered sex offender or pursuant to Section 1026 or 1368 of the Penal Code and the records are in the possession or under the control of any state hospital serving the mentally disabled, as follows:

(a) In accordance with the written consent of the patient; or

(b) If authorized by an appropriate order of a court of competent jurisdiction in the county where the records are located compelling a party to produce in court specified records and specifically describing the records being sought, when the order is granted after an application showing probable cause therefor. In assessing probable cause, the court shall do all of the following:

(1) Weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(2) Determine that there is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) Determine that the crime involves the causing of, or direct threatening of, the loss of life or serious bodily injury.

(4) In granting or denying a subpoena, the court shall state on the record the reasons for its decision and the facts which the court considered in making such a ruling.

(5) If a court grants an order permitting disclosure of such records, the court shall issue all orders necessary to protect, to the maximum extent possible, the patient's privacy and the privacy and confidentiality of the physician-patient relationship.

(6) Any records disclosed pursuant to the provisions of this subdivision and any copies thereof shall be returned to the facility at the completion of the investigation or prosecution unless they have been made a part of the court record.

(c) A governmental law enforcement agency applying for disclosure of patient records under this subdivision may petition the court for an order, upon a showing of probable cause to believe that delay would seriously impede the investigation, which requires the ordered party to produce the records forthwith.

(d) Records obtained by a governmental law enforcement agency pursuant to this section shall not be disseminated to any other agency or person unless such dissemination relates to the criminal investigation for which the records were obtained by the governmental law enforcement agency. The willful dissemination of any record in violation of this paragraph shall constitute a misdemeanor.

(e) If any records obtained pursuant to this section are of a patient presently receiving treatment at the state hospital serving the mentally disabled, the law enforcement agency shall only receive copies of the original records.

(Added by Stats. 1985, Ch. 1036, Sec. 1.)

5328.02. Notwithstanding Section 5328, all information and records made confidential under the first paragraph of Section 5328 shall also be disclosed to the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

(Added by Stats. 1980, Ch. 1117, Sec. 26.)

5328.05. (a) Notwithstanding Section 5328, information and records may be disclosed when an older adult client, in the opinion of a designee of a human service agency serving older adults through an established multidisciplinary team, presents signs or symptoms of elder abuse or neglect, whether inflicted by another or self-inflicted, the agency designee to the multidisciplinary team may, with the older adult's consent, obtain information from other county agencies regarding, and limited to, whether or not a client is receiving services from any other county agency.

(b) The information obtained pursuant to subdivision (a) shall not include information regarding the nature of the treatment or services provided, and shall be shared among multidisciplinary team members for multidisciplinary team activities pursuant to this section.

(c) The county agencies which may cooperate and share information under this section shall have staff designated as members of an established multidisciplinary team, and include, but not be limited to, the county departments of public social services, health, mental health, and alcohol and drug abuse, the public guardian, and the area agencies on aging.

(d) The county patient's rights advocate shall report any negative consequences of the implementation of this exception to confidentiality requirements to the local mental health director.

(Added by Stats. 1990, Ch. 654, Sec. 1.)

5328.06. (a) Notwithstanding Section 5328, information and records may be disclosed to the protection and advocacy agency established in this state to fulfill the requirements and assurances of the federal Protection and Advocacy for the Mentally Ill Individuals Act of 1986, as amended, contained in Chapter 114 (commencing with Section 10801) of Title 42 of the United States Code, for the protection and advocacy of the rights of individuals identified as mentally ill, as defined in Section 10802(3) of Title 42 of the United States Code.

(b) Access to information and records to which subdivision (a) applies shall be in accord with Division 4.7 (commencing with Section 4900).

(Added by Stats. 1991, Ch. 534, Sec. 5.)

5328.1. (a) Upon request of a member of the family of a patient, or other person designated by the patient, a public or private treatment facility shall give the family member or the designee notification of the patient's diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, and the progress of the patient, if, after notification of the patient that this information is requested, the patient authorizes its disclosure. If, when initially informed of the request for notification, the patient is unable to authorize the release of such information, notation of the attempt shall be made into the patient's treatment record, and daily efforts shall be made to secure the patient's consent or refusal of authorization. However, if a request for information is made by the spouse, parent, child, or sibling of the patient and the patient is unable to authorize the release of such information, the requester shall be given notification of the patient's presence in the facility, except to the extent prohibited by federal law.

(b) Upon the admission of any mental health patient to a 24-hour public or private health facility licensed pursuant to Section 1250 of the Health and Safety Code, the facility shall make reasonable attempts to notify the patient's next of kin or any other person designated by the patient, of the patient's admission, unless the patient requests that this information not be provided. The facility shall make reasonable attempts to notify the patient's next of kin or any other person designated by the patient, of the patient's release, transfer, serious illness, injury, or death only upon request of the family member, unless the patient requests that this information not be provided. The patient shall be advised by the facility that he or she has the right to request that this information not be provided.

(c) No public or private entity or public or private employee shall be liable for damages caused or alleged to be caused by the release of information or the omission to release information pursuant to this section.

Nothing in this section shall be construed to require photocopying of a patient's medical records in order to satisfy its provisions.

(Amended by Stats. 1983, Ch. 1174, Sec. 2.)

5328.15. All information and records obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7000), to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:

(a) To authorized licensing personnel who are employed by, or who are authorized representatives of, the State Department of Health Services, and who are licensed or registered health

professionals, and to authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate health facilities and community care facilities and to ensure that the standards of care and services provided in such facilities are adequate and appropriate and to ascertain compliance with the rules and regulations to which the facility is subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 3 (commencing with Section 1500) of, Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Health Services or the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names which are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Health Services or the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Health Services or the State Department of Social Services shall not contain the name of the patient.

(b) To any board which licenses and certifies professionals in the fields of mental health pursuant to state law, when the Director of Mental Health has reasonable cause to believe that there has occurred a violation of any provision of law subject to the jurisdiction of that board and the records are relevant to the violation. This information shall be sealed after a decision is reached in the matter of the suspected violation, and shall not subsequently be released except in accordance with this subdivision. Confidential information in the possession of the board shall not contain the name of the patient.

(Amended by Stats. 1985, Ch. 994, Sec. 2.)

5328.2. Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed to the department, state hospital, or any other public or private mental health facility approved by the county mental health director for observation or for an indeterminate period as a mentally disordered sex offender, or regarding a patient who is committed to

the department, to a state hospital, or any other public or private mental health facility approved by the county mental health director under Section 1026 or 1370 of the Penal Code or receiving treatment pursuant to Section 5300 of this code, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence and, if known, the county in which the person will reside upon release. The Department of Justice may in turn furnish information reported under this section pursuant to Section 11105 or 11105.1 of the Penal Code. It shall be a misdemeanor for recipients furnished with this information to in turn furnish the information to any person or agency other than those specified in Section 11105 or 11105.1 of the Penal Code.

(Amended by Stats. 1984, Ch. 1415, Sec. 4.)

5328.3. When a voluntary patient would otherwise be subject to the provisions of Section 5150 of this part and disclosure is necessary for the protection of the patient or others due to the patient's disappearance from, without prior notice to, a designated facility and his whereabouts is unknown, notice of such disappearance may be made to relatives and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility or his designee.

(Added by Stats. 1970, Ch. 1627.)

5328.4. The physician in charge of the patient, or the professional person in charge of the facility or his or her designee, when he or she has probable cause to believe that a patient while hospitalized has committed, or has been the victim of, murder, manslaughter, mayhem, aggravated mayhem, kidnapping, carjacking, robbery, assault with intent to commit a felony, arson, extortion, rape, forcible sodomy, forcible oral copulation, unlawful possession of a weapon as provided in Section 12020 of the Penal Code, or escape from a hospital by a mentally disordered sex offender as provided in Section 6330 of the Welfare and Institutions Code, shall release information about the patient to governmental law enforcement agencies.

The physician in charge of the patient, or the professional person in charge of the facility or his or her designee, when he or she has probable cause to believe that a patient, while hospitalized has committed, or has been the victim of assault or battery may release information about the patient to governmental law enforcement agencies.

This section shall be limited solely to information directly relating to the factual circumstances of the commission of the enumerated offenses and shall not include any information relating

to the mental state of the patient or the circumstances of his or her voluntary or involuntary admission, commitment, or treatment.

This section shall not be construed as an exception to or in any other way affecting the provisions of Article 7 (commencing with Section 1010) of Chapter 4 of Division 8 of the Evidence Code.

(Amended by Stats. 1993, Ch. 611, Sec. 36. Effective October 1, 1993.)

5328.5. Information and records described in Section 5328 may be disclosed in communications relating to the prevention, investigation, or treatment of elder abuse or dependent adult abuse pursuant to Chapter 11 (commencing with Section 15600) and Chapter 13 (commencing with Section 15750), of Part 3 of Division 9.

(Added by Stats. 1987, Ch. 1166, Sec. 1. Effective September 26, 1987.)

5328.6. When any disclosure of information or records is made as authorized by the provisions of Section 11878 or 11879 of the Health and Safety Code, subdivision (a) or (d) of Section 5328, Sections 5328.1, 5328.3, or 5328.4, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record: the date and circumstances under which such disclosure was made; the names and relationships to the patient if any, of persons or agencies to whom such disclosure was made; and the specific information disclosed.

(Amended by Stats. 1980, Ch. 676, Sec. 333.)

5328.7. Signed consent forms by a patient for release of any information to which such patient is required to consent under the provisions of Sections 11878 or 11879 of the Health and Safety Code or subdivision (a) or (d) of Section 5328 shall be obtained for each separate use with the use specified, the information to be released, the name of the agency or individual to whom information will be released indicated on the form and the name of the responsible individual who has authorization to release information specified. Any use of this form shall be noted in the patient file. Patients who sign consent forms shall be given a copy of the consent form signed.

(Amended by Stats. 1980, Ch. 676, Sec. 334.)

5328.8. The State Department of Mental Health, the physician in charge of the patient, or the professional person in charge of the facility or his or her designee, shall, except as otherwise provided in this section, release information obtained in the course of providing services under Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), to the coroner when a patient dies from any cause, natural or otherwise, while hospitalized in a state mental hospital. The State Department of Mental Health, the physician

in charge of the patient, or the professional person in charge of the facility or his or her designee, shall not release any notes, summaries, transcripts, tapes, or records of conversations between the patient and health professional personnel of the hospital relating to the personal life of the patient which is not related to the diagnosis and treatment of the patient's physical condition. Any information released to the coroner pursuant to this section shall remain confidential and shall be sealed and shall not be made part of the public record.

(Amended by Stats. 1982, Ch. 1141, Sec. 8.)

5328.9. If at such time as a patient's hospital records are required by an employer to whom the patient has applied for employment, such records shall be forwarded to a qualified physician or psychiatrist representing the employer upon the request of the patient unless the physician or administrative officer responsible for the patient deems the release of such records contrary to the best interest of the patient.

If the physician or administrative officer responsible for a patient deems the release of such records contrary to the best interest of the patient, he shall notify the patient within five days. In the event that the disclosure of the patient's records to the patient himself would not serve his best interests, the physician or administrative officer in question shall render formal notice of his decision to the superior court of the county in which the patient resides.

(Added by Stats. 1972, Ch. 1058.)

5329. Nothing in this chapter shall be construed to prohibit the compilation and publication of statistical data for use by government or researchers under standards set by the Director of Mental Health.

(Amended by Stats. 1982, Ch. 1141, Sec. 10.)

5330. Any person may bring an action against an individual who has willfully and knowingly released confidential information or records concerning him in violation of the provisions of this chapter, or of Chapter 1 (commencing with Section 11860) of Part 3 of Division 10.5 of the Health and Safety Code, for the greater of the following amounts:

(1) Five hundred dollars ($500).

(2) Three times the amount of actual damages, if any, sustained by the plaintiff.

Any person may, in accordance with the provisions of Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, bring an action to enjoin the release of confidential information or records in violation of the provisions of this chapter, and may in the same action seek damages as provided in

this section.

It is not a prerequisite to an action under this section that the plaintiff suffer or be threatened with actual damages.

(Amended by Stats. 1980, Ch. 676, Sec. 335.)

5331. No person may be presumed to be incompetent because he or she has been evaluated or treated for mental disorder or chronic alcoholism, regardless of whether such evaluation or treatment was voluntarily or involuntarily received. Any person who leaves a public or private mental health facility following evaluation or treatment for mental disorder or chronic alcoholism, regardless of whether that evaluation or treatment was voluntarily or involuntarily received, shall be given a statement of California law as stated in this paragraph.

Any person who has been, or is, discharged from a state hospital and received voluntary or involuntary treatment under former provisions of this code relating to inebriates or the mentally ill shall, upon request to the state hospital superintendent or the State Department of Mental Health, be given a statement of California law as stated in this section unless the person is found to be incompetent under proceedings for conservatorship or guardianship.

(Amended by Stats. 1977, Ch. 1252.)

5332. (a) Antipsychotic medication, as defined in subdivision (l) of Section 5008, may be administered to any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, if that person does not refuse that medication following disclosure of the right to refuse medication as well as information required to be given to persons pursuant to subdivision (c) of Section 5152 and subdivision (b) of Section 5213.

(b) If any person subject to detention pursuant to Section 5150, 5250, 5260, or 5270.15, and for whom antipsychotic medication has been prescribed, orally refuses or gives other indication of refusal of treatment with that medication, the medication shall only be administered when treatment staff have considered and determined that treatment alternatives to involuntary medication are unlikely to meet the needs of the patient, and upon a determination of that person's incapacity to refuse the treatment, in a hearing held for that purpose.

(c) Each hospital in conjunction with the hospital medical staff or any other treatment facility in conjunction with its clinical staff shall develop internal procedures for facilitating the filing of petitions for capacity hearings and other activities required pursuant to this chapter.

(d) In the case of an emergency, as defined in subdivision (m) of Section 5008, a person detained pursuant to Section 5150, 5250, 5260, or 5270.15 may be treated with antipsychotic medication over his or her objection prior to a capacity hearing, but only with

antipsychotic medication that is required to treat the emergency condition, which shall be provided in the manner least restrictive to the personal liberty of the patient. It is not necessary for harm to take place or become unavoidable prior to intervention.

(Added by Stats. 1991, Ch. 681, Sec. 3.)

5333. (a) Persons subject to capacity hearings pursuant to Section 5332 shall have a right to representation by an advocate or legal counsel. "Advocate," as used in this section, means a person who is providing mandated patients' rights advocacy services pursuant to Chapter 6.2 (commencing with Section 5500), and this chapter. If the Department of Mental Health provides training to patients' rights advocates, that training shall include issues specific to capacity hearings.

(b) Petitions for capacity hearings pursuant to Section 5332 shall be filed with the superior court. The director of the treatment facility or his or her designee shall personally deliver a copy of the notice of the filing of the petition for a capacity hearing to the person who is the subject of the petition.

(c) The mental health professional delivering the copy of the notice of the filing of the petition to the court for a capacity hearing shall, at the time of delivery, inform the person of his or her legal right to a capacity hearing, including the right to the assistance of the patients' rights advocate or an attorney to prepare for the hearing and to answer any questions or concerns.

(d) As soon after the filing of the petition for a capacity hearing is practicable, an attorney or a patients' rights advocate shall meet with the person to discuss the capacity hearing process and to assist the person in preparing for the capacity hearing and to answer questions or to otherwise assist the person, as is appropriate.

(Added by Stats. 1991, Ch. 681, Sec. 4.)

5334. (a) Capacity hearings required by Section 5332 shall be heard within 24 hours of the filing of the petition whenever possible. However, if any party needs additional time to prepare for the hearing, the hearing shall be postponed for 24 hours. In case of hardship, hearings may also be postponed for an additional 24 hours, pursuant to local policy developed by the county mental health director and the presiding judge of the superior court regarding the scheduling of hearings. The policy developed pursuant to this subdivision shall specify procedures for the prompt filing and processing of petitions to ensure that the deadlines set forth in this section are met, and shall take into consideration the availability of advocates and the treatment needs of the patient. In no event shall hearings be held beyond 72 hours of the filing of the petition. The person who is the subject of the petition and his or her advocate or counsel shall receive a copy of the petition at the time it is filed.

(b) Capacity hearings shall be held in an appropriate

location at the facility where the person is receiving treatment, and shall be held in a manner compatible with, and the least disruptive of, the treatment being provided to the person.

(c) Capacity hearings shall be conducted by a superior court judge, a court-appointed commissioner or referee, or a court-appointed hearing officer. All commissioners, referees, and hearing officers shall be appointed by the superior court from a list of attorneys unanimously approved by a panel composed of the local mental health director, the county public defender, and the county counsel or district attorney designated by the county board of supervisors. No employee of the county mental health program or of any facility designated by the county and approved by the department as a facility for 72-hour treatment and evaluation may serve as a hearing officer. All hearing officers shall receive training in the issues specific to capacity hearings.

(d) The person who is the subject of the capacity hearing shall be given oral notification of the determination at the conclusion of the capacity hearing. As soon thereafter as is practicable, the person, his or her counsel or advocate, and the director of the facility where the person is receiving treatment shall be provided with written notification of the capacity determination, which shall include a statement of the evidence relied upon and the reasons for the determination. A copy of the determination shall be submitted to the superior court.

(e) (1) The person who is the subject of the capacity hearing may appeal the determination to the superior court or the court of appeal.

(2) The person who has filed the original petition for a capacity hearing may request the district attorney or county counsel in the county in which the person is receiving treatment to appeal the determination to the superior court or the court of appeal, on behalf of the state.

(3) Nothing shall prohibit treatment from being initiated pending appeal of a determination of incapacity pursuant to this section.

(4) Nothing in this section shall be construed to preclude the right of a person to bring a writ of habeas corpus pursuant to Section 5275, subject to the provisions of this chapter.

(f) All appeals to the superior court pursuant to this section shall be subject to de novo review.

(Added by Stats. 1991, Ch. 681, Sec. 5.)

5336. Any determination of a person's incapacity to refuse treatment with antipsychotic medication made pursuant to Section 5334 shall remain in effect only for the duration of the detention period described in Section 5150 or 5250, or both, or until capacity has been restored according to standards developed pursuant to subdivision (c) of Section 5332, or by court determination, whichever is sooner.

(Added by Stats. 1991, Ch. 681, Sec. 6.)

5337. Notwithstanding Section 5257, nothing shall prohibit the filing of a petition for post certification pursuant to Article 6 (commencing with Section 5300) for persons who have been determined to be a danger to others at a certification review hearing.

(Added by Stats. 1991, Ch. 681, Sec. 7.)

Article 8. Community Controlled Substances Treatment Services

(Heading of Article 8 amended by Stats. 1984, Ch. 1635, Sec. 98.)

5340. It is the intention of the Legislature by enacting this article to provide legal procedures for the custody, evaluation, and treatment of users of controlled substances. The enactment of this article shall not be construed to be evidence that any person subject to its provisions is mentally disordered, or evidence that the Legislature considers that such persons are mentally disordered.

(Amended by Stats. 1984, Ch. 1635, Sec. 99.)

5341. As used in this article, "controlled substances" means those substances referred to in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(Repealed and added by Stats. 1984, Ch. 1635, Sec. 101.)

5342. Where other applicable sections of this part contain the phrase "a danger to himself or herself or others, or gravely disabled," such sections shall be deemed to refer to the condition of danger to self or others or grave disability as a result of the use of controlled substances, rather than by mental disorder, as such.

(Amended by Stats. 1984, Ch. 1635, Sec. 102.)

5343. Notwithstanding any other provision of law, if any person is a danger to others or to himself or herself, or gravely disabled, as a result of the use of controlled substances, he or she shall be subject, insofar as possible, to the provisions of Articles 1 (commencing with Section 5150), 2 (commencing with Section 5200), 4 (commencing with Section 5250), 5 (commencing with Section 5275), and 7 (commencing with Section 5325) of this chapter, except that any custody, evaluation and treatment, or any procedure pursuant to such provisions shall only be related to and concerned with the problem of the person's use of controlled substances.

(Amended by Stats. 1984, Ch. 1635, Sec. 103.)

5344. Any expenditure for the custody, evaluation, treatment, or other procedures for services rendered a person pursuant to this article shall be considered an expenditure made under the

provisions of Part 2 (commencing with Section 5600) of this division, and shall be paid as are other expenditures pursuant to that part. No person shall be admitted to a state hospital for care and treatment of his or her use of controlled substances prior to screening and referral by an agency designated in the county Short-Doyle plan to provide the services.

(Amended by Stats. 1984, Ch. 1635, Sec. 104.)

CHAPTER 3. CONSERVATORSHIP FOR GRAVELY DISABLED PERSONS

(Chapter 3 added by Stats. 1967, Ch. 1667.)

5350. A conservator of the person, of the estate, or of the person and the estate may be appointed for any person who is gravely disabled as a result of mental disorder or impairment by chronic alcoholism.

The procedure for establishing, administering and terminating conservatorship under this chapter shall be the same as that provided in Division 4 (commencing with Section 1400) of the Probate Code, except as follows:

(a) A conservator may be appointed for a gravely disabled minor.

(b) Appointment of a conservator under this part shall be subject to the list of priorities in Section 1812 of the Probate Code unless the officer providing conservatorship investigation recommends otherwise to the superior court.

(c) No conservatorship of the estate pursuant to this chapter shall be established if a conservatorship or guardianship of the estate exists under the Probate Code. When a gravely disabled person already has a guardian or conservator of the person appointed under the Probate Code, the proceedings under this chapter shall not terminate the prior proceedings but shall be concurrent with and superior thereto. The superior court may appoint the existing guardian or conservator of the person or another person as conservator of the person under this chapter.

(d) The person for whom conservatorship is sought shall have the right to demand a court or jury trial on the issue whether he or she is gravely disabled. Demand for court or jury trial shall be made within five days following the hearing on the conservatorship petition. If the proposed conservatee demands a court or jury trial before the date of the hearing as provided for in Section 5365, such demand shall constitute a waiver of the hearing.

Court or jury trial shall commence within 10 days of the date of the demand, except that the court shall continue the trial date for a period not to exceed 15 days upon the request of counsel for the proposed conservatee.

This right shall also apply in subsequent proceedings to reestablish conservatorship.

(e) (1) Notwithstanding paragraph (1) of subdivision (h) of Section 5008, a person is not "gravely disabled" if that person can survive safely without involuntary detention with the help of responsible family, friends, or others who are both willing and able to help provide for the person's basic personal needs for food, clothing, or shelter.

(2) However, unless they specifically indicate in writing their willingness and ability to help, family, friends, or others shall not be considered willing or able to provide this help.

(3) The purpose of this subdivision is to avoid the necessity for, and the harmful effects of, requiring family, friends, and others to publicly state, and requiring the court to publicly find, that no one is willing or able to assist the mentally disordered person in providing for the person's basic needs for food, clothing, or shelter.

(f) Conservatorship investigation shall be conducted pursuant to this part and shall not be subject to Section 1826 or Chapter 2 (commencing with Section 1850) of Part 3 of Division 4 of the Probate Code.

(g) Notice of proceedings under this chapter shall be given to a guardian or conservator of the person or estate of the proposed conservatee appointed under the Probate Code.

(h) As otherwise provided in this chapter.

(Amended by Stats. 1989, Ch. 999, Sec. 2.)

5350.1. The purpose of conservatorship, as provided for in this article, is to provide individualized treatment, supervision, and placement.

(Added by Stats. 1978, Ch. 1294.)

5350.2. Reasonable attempts shall be made by the county mental health program to notify family members or any other person designated by the person for whom conservatorship is sought, of the time and place of the conservatorship hearing. The person for whom the conservatorship is sought shall be advised by the facility treating the person that he or she may request that information about the time and place of the conservatorship hearing not be given to family members, in those circumstances where the proposed conservator is not a family member. The request shall be honored by the mental health program. Neither this section nor Section 5350 shall be interpreted to allow the proposed conservatee to request that any proposed conservator not be advised of the time and place of the conservatorship hearing.

(Amended by Stats. 1987, Ch. 56, Sec. 183.)

5351. In each county or counties acting jointly under the

provisions of Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the governing board shall designate the agency or agencies to provide conservatorship investigation as set forth in this chapter. The governing board may designate that conservatorship services be provided by the public guardian or agency providing public guardian services.

(Amended by Stats. 1986, Ch. 335, Sec. 1.)

5352. When the professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment determines that a person in his care is gravely disabled as a result of mental disorder or impairment by chronic alcoholism and is unwilling to accept, or incapable of accepting, treatment voluntarily, he may recommend conservatorship to the officer providing conservatorship investigation of the county of residence of the person prior to his admission as a patient in such facility.

The professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment may recommend conservatorship for a person without the person being an inpatient in such facility, if both of the following conditions are met: (a) the professional person or another professional person designated by him has examined and evaluated the person and determined that he is gravely disabled; (b) the professional person or another professional person designated by him has determined that future examination on an inpatient basis is not necessary for a determination that the person is gravely disabled.

If the officer providing conservatorship investigation concurs with the recommendation, he shall petition the superior court in the county of residence of the patient to establish conservatorship.

Where temporary conservatorship is indicated, the fact shall be alternatively pleaded in the petition. The officer providing conservatorship investigation or other county officer or employee designated by the county shall act as the temporary conservator.

(Amended by Stats. 1979, Ch. 730.)

5352.1. The court may establish a temporary conservatorship for a period not to exceed 30 days and appoint a temporary conservator on the basis of the comprehensive report of the officer providing conservatorship investigation filed pursuant to Section 5354, or on the basis of an affidavit of the professional person who recommended conservatorship stating the reasons for his recommendation, if the court is satisfied that such comprehensive report or affidavit show the necessity for a temporary conservatorship.

Except as provided in this section, all temporary conservatorships shall expire automatically at the conclusion of 30 days, unless prior to that date the court shall conduct a hearing on

the issue of whether or not the proposed conservatee is gravely disabled as defined in subdivison (h) of Section 5008.

If the proposed conservatee demands a court or jury trial on the issue whether he is gravely disabled, the court may extend the temporary conservatorship until the date of the disposition of the issue by the court or jury trial, provided that such extension shall in no event exceed a period of six months.

(Amended by Stats. 1972, Ch. 574.)

5352.2. Where the duly designated officer providing conservatorship investigation is a public guardian, his official oath and bond as public guardian are in lieu of any other bond or oath on the grant of temporary letters of conservatorship to him.

(Added by Stats. 1970, Ch. 566.)

5352.3. If the professional person in charge of the facility providing intensive treatment recommends conservatorship pursuant to Section 5352, the proposed conservatee may be held in that facility for a period not to exceed three days beyond the designated period for intensive treatment if the additional time period is necessary for a filing of the petition for temporary conservatorship and the establishment of the temporary conservatorship by the court. The involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250, and 5170.15 shall not exceed 47 days unless continuance is granted.

(Amended by Stats. 1988, Ch. 1517, Sec. 13.)

5352.4. If a conservatee appeals the court's decision to establish conservatorship, the conservatorship shall continue unless execution of judgment is stayed by the appellate court.

(Added by Stats. 1972, Ch. 574.)

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or a designee, or professional person in charge of the local mental health facility, or a designee, or the local mental health director, or a designee, to the conservatorship investigator of the county of residence of the person prior to his or her admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person convicted of a felony who has been transferred to a state hospital under the

jurisdiction of the State Department of Mental Health pursuant to Section 2684 of the Penal Code by the recommendation of the medical director of the state hospital to the conservatorship investigator of the county of residence of the person or of the county in which the state hospital is located.

Subject to the provisions of Sections 5150 and 5250, conservatorship proceedings may be initiated for any person committed to the Youth Authority, or on parole from a facility of the Youth Authority, by the Director of the Department of the Youth Authority or a designee, to the conservatorship investigator of the county of residence of the person or of the county in which the facility is situated.

The county mental health program providing conservatorship investigation services and conservatorship case management services for any persons except those transferred pursuant to Section 4011.6 of the Penal Code shall be reimbursed for the expenditures made by it for the services pursuant to the Short-Doyle Act (commencing with Section 5600) at 100 percent of the expenditures. Each county Short-Doyle plan shall include provision for the services in the plan.

(Amended by Stats. 1986, Ch. 933, Sec. 2.)

5352.6. Within 10 days after conservatorship of the person has been established under the provisions of this article, there shall be an individualized treatment plan unless treatment is specifically found not to be appropriate by the court. The treatment plan shall be developed by the Short-Doyle Act community mental health service, the staff of a facility operating under a contract to provide such services in the individual's county of residence, or the staff of a health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code to provide inpatient psychiatric treatment. The person responsible for developing the treatment plan shall encourage the participation of the client and the client's family members, when appropriate, in the development, implementation, revision, and review of the treatment plan. The individualized treatment plan shall specify goals for the individual's treatment, the criteria by which accomplishment of the goals can be judged, and a plan for review of the progress of treatment. The goals of the treatment plan shall be equivalent to reducing or eliminating the behavioral manifestations of grave disability. If a treatment plan is not developed as provided herein then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the conservator, or the attorney of record for the conservatee.

When the progress review determines that the goals have been reached and the person is no longer gravely disabled, a person designated by the county shall so report to the court and the conservatorship shall be terminated by the court.

If the conservator fails to report to the court that the person is no longer gravely disabled as provided herein, then the matter shall be referred to the court by the Short-Doyle Act community mental health service, or the staff of a facility operating under a contract to provide such services, or the attorney of record for the conservatee.

(Amended by Stats. 1986, Ch. 872, Sec. 6.)

5353. A temporary conservator under this chapter shall determine what arrangements are necessary to provide the person with food, shelter, and care pending the determination of conservatorship. He shall give preference to arrangements which allow the person to return to his home, family or friends. If necessary, the temporary conservator may require the person to be detained in a facility providing intensive treatment or in a facility specified in Section 5358 pending the determination of conservatorship. Any person so detained shall have the same right to judicial review set forth in Article 5 (commencing with Section 5275) of Chapter 2 of this part.

The powers of the temporary conservator shall be those granted in the decree, but in no event may they be broader than the powers which may be granted a conservator.

The court shall order the temporary conservator to take all reasonable steps to preserve the status quo concerning the conservatee's previous place of residence. The temporary conservator shall not be permitted to sell or relinquish on the conservatee's behalf any estate or interest in any real or personal property, including any lease or estate in real or personal property used as or within the conservatee's place of residence, without specific approval of the court, which may be granted only upon a finding based on a preponderance of the evidence that such action is necessary to avert irreparable harm to the conservatee. A finding of irreparable harm as to real property may be based upon a reasonable showing that such real property is vacant, that it cannot reasonably be rented, and that it is impossible or impractical to obtain fire or liability insurance on such property.

(Amended by Stats. 1978, Ch. 1268.)

5354. The officer providing conservatorship investigation shall investigate all available alternatives to conservatorship and shall recommend conservatorship to the court only if no suitable alternatives are available. This officer shall render to the court a written report of investigation prior to the hearing. The report to the court shall be comprehensive and shall contain all relevant aspects of the person's medical, psychological, financial, family, vocational and social condition, and information obtained from the person's family members, close friends, social worker or principal therapist. The report shall also contain all available information concerning the person's real and personal property. The facilities

providing intensive treatment or comprehensive evaluation shall disclose any records or information which may facilitate the investigation. If the officer providing conservatorship investigation recommends against conservatorship, he or she shall set forth all alternatives available. A copy of the report shall be transmitted to the individual who originally recommended conservatorship, to the person or agency, if any, recommended to serve as conservator, and to the person recommended for conservatorship. The court may receive the report in evidence and may read and consider the contents thereof in rendering its judgment.

(Amended by Stats. 1982, Ch. 1598, Sec. 7.)

5354.5. Except as otherwise provided in this section, the person recommended to serve as conservator shall promptly notify the officer providing conservatorship investigation whether he or she will accept the position if appointed. If notified that the person or agency recommended will not accept the position if appointed, the officer providing conservatorship investigation shall promptly recommend another person to serve as conservator.

The public guardian shall serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.

(Amended by Stats. 1986, Ch. 872, Sec. 6.5.)

5355. If the conservatorship investigation results in a recommendation for conservatorship, the recommendation shall designate the most suitable person, corporation, state or local agency or county officer, or employee designated by the county to serve as conservator. No person, corporation, or agency shall be designated as conservator whose interests, activities, obligations or responsibilities are such as to compromise his or their ability to represent and safeguard the interests of the conservatee. Nothing in this section shall be construed to prevent the State Department of Mental Health from serving as guardian pursuant to Section 7284, or the function of the conservatorship investigator and conservator being exercised by the same public officer or employee.

When a public guardian is appointed conservator, his official bond and oath as public guardian are in lieu of the conservator's bond and oath on the grant of letters of conservatorship. No bond shall be required of any other public officer or employee appointed to serve as conservator.

(Amended by Stats. 1977, Ch. 1252.)

5356. The report of the officer providing conservatorship investigation shall contain his or her recommendations concerning the powers to be granted to, and the duties to be imposed upon the

conservator, the legal disabilities to be imposed upon the conservatee, and the proper placement for the conservatee pursuant to Section 5358. Except as provided in this section, the report to the court shall also contain an agreement signed by the person or agency recommended to serve as conservator certifying that the person or agency is able and willing to serve as conservator. The public guardian shall serve as conservator of any person found by a court under this chapter to be gravely disabled, if the court recommends the conservatorship after a conservatorship investigation, and if the court finds that no other person or entity is willing and able to serve as conservator.

(Amended by Stats. 1986, Ch. 872, Sec. 7.)

5357. All conservators of the estate shall have the general powers specified in Chapter 6 (commencing with Section 2400) of Part 4 of Division 4 of the Probate Code and shall have the additional powers specified in Article 11 (commencing with Section 2590) of Chapter 6 of Part 4 of Division 4 of the Probate Code as the court may designate. The report shall set forth which, if any, of the additional powers it recommends. The report shall also recommend for or against the imposition of each of the following disabilities on the proposed conservatee:

(a) The privilege of possessing a license to operate a motor vehicle. If the report recommends against this right and if the court follows the recommendation, the agency providing conservatorship investigation shall, upon the appointment of the conservator, so notify the Department of Motor Vehicles.

(b) The right to enter into contracts. The officer may recommend against the person having the right to enter specified types of transactions or transactions in excess of specified money amounts.

(c) The disqualification of the person from voting pursuant to Section 2208 of the Elections Code.

(d) The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. The conservatee shall retain all rights specified in Section 5325.

(e) The right to refuse or consent to routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. The court shall make a specific determination regarding imposition of this disability.

(f) The disqualification of the person from possessing a firearm pursuant to subdivision (e) of Section 8103.

(Amended by Stats. 1994, Ch. 923, Sec. 268. Effective January 1, 1995.)

5358. (a) When ordered by the court after the hearing required by this section, a conservator appointed pursuant to this chapter shall place his or her conservatee in the least restrictive alternative placement, as designated by the court. That placement may

include a medical, psychiatric, nursing, or other state-licensed facility, or a state hospital, county hospital, hospital operated by the Regents of the University of California, a United States government hospital, or other nonmedical facility approved by the State Department of Mental Health or an agency accredited by the State Department of Mental Health, or in addition to any of the foregoing, in cases of chronic alcoholism, to a county alcoholic treatment center.

(b) A conservator shall also have the right, if specified in the court order, to require his or her conservatee to receive treatment related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled, or to require his or her conservatee to receive routine medical treatment unrelated to remedying or preventing the recurrence of the conservatee's being gravely disabled. Except in emergency cases in which the conservatee faces loss of life or serious bodily injury, no surgery shall be performed upon the conservatee without the conservatee's prior consent or a court order obtained pursuant to Section 5358.2 specifically authorizing that surgery.

(c) If the conservatee is not to be placed in his or her own home or the home of a relative, first priority shall be to placement in a suitable facility as close as possible to his or her home or the home of a relative. For the purposes of this section, suitable facility means the least restrictive residential placement available and necessary to achieve the purposes of treatment. At the time that the court considers the report of the officer providing conservatorship investigation specified in Section 5356, the court shall consider available placement alternatives. After considering all the evidence the court shall determine the least restrictive and most appropriate alternative placement for the conservatee. The court shall also determine those persons to be notified of a change of placement. The fact that a person for whom conservatorship is recommended is not an inpatient shall not be construed by the court as an indication that the person does not meet the criteria of grave disability.

If requested, the local mental health director shall assist the conservator or the court in selecting a placement facility for the conservatee. When a conservatee who is receiving services from the local mental health program is placed, the conservator shall inform the local mental health director of the facility's location and any movement of the conservatee to another facility.

(d) The conservator may transfer his or her conservatee to a less restrictive alternative placement without a further hearing and court approval. In any case in which a conservator has reasonable cause to believe that his or her conservatee is in need of immediate more restrictive placement because the condition of the conservatee has so changed that the conservatee poses an immediate and substantial danger to himself or herself or others, the conservator shall have the

right to place his or her conservatee in a more restrictive facility or hospital. Notwithstanding Section 5328, if the change of placement is to a placement more restrictive than the court-determined placement, the conservator shall provide written notice of the change of placement and the reason therefor to the court, the conservatee's attorney, the county patient's rights advocate and any other persons designated by the court pursuant to subdivision (c).

(Amended by Stats. 1990, Ch. 180, Sec. 2.)

5358.1. Neither a conservator, temporary conservator, or public guardian appointed pursuant to this chapter, nor a peace officer acting pursuant to Section 5358.5, shall be held civilly or criminally liable for any action by a conservatee.

(Added by Stats. 1972, Ch. 574.)

5358.2. If a conservatee requires medical treatment and the conservator has not been specifically authorized by the court to require the conservatee to receive medical treatment, the conservator shall, after notice to the conservatee, obtain a court order for that medical treatment, except in emergency cases in which the conservatee faces loss of life or serious bodily injury. The conservatee, if he or she chooses to contest the request for a court order, may petition the court for hearing which shall be held prior to granting the order.

(Amended by Stats. 1990, Ch. 180, Sec. 3.)

5358.3. At any time, a conservatee or any person on his behalf with the consent of the conservatee or his counsel, may petition the court for a hearing to contest the rights denied under Section 5357 or the powers granted to the conservator under Section 5358. However, after the filing of the first petition for hearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months.

A request for hearing pursuant to this section shall not affect the right of a conservatee to petition the court for a rehearing as to his status as a conservatee pursuant to Section 5364. A hearing pursuant to this section shall not include trial by jury. If a person's right to vote is restored, the court shall so notify the county elections official pursuant to subdivision (c) of Section 2210 of the Elections Code.

(Amended by Stats. 1994, Ch. 923, Sec. 269. Effective January 1, 1995.)

5358.5. When any conservatee placed into a facility pursuant to this chapter leaves the facility without the approval of the conservator or the person in charge of the facility, or when the conservator appointed pursuant to this chapter deems it necessary to remove his conservatee to the county designated treatment facility, the conservator may take the conservatee into custody and return him

to the facility or remove him to the county designated treatment facility. A conservator, at his discretion, may request a peace officer to detain the conservatee and return such person to the facility in which he was placed or to transfer such person to the county designated treatment facility, pursuant to Section 7325 of the Welfare and Institutions Code. Such request shall be in writing and accompanied by a certified copy of the letters of conservatorship showing the person requesting detention and transfer to be the conservator appointed pursuant to this chapter as conservator of the person sought to be detained. Either the conservator or his assistant or deputy may request detention under this section. Whenever possible, persons charged with apprehension of persons pursuant to this section shall dress in plain clothes and shall travel in unmarked vehicles.

(Amended by Stats. 1974, Ch. 833.)

5358.6. Any conservator who places his or her conservatee in an inpatient facility pursuant to Section 5358, may also require the conservatee to undergo outpatient treatment. Before doing so, the conservator shall obtain the agreement of the person in charge of a mental health facility that the conservatee will receive outpatient treatment and that the person in charge of the facility will designate a person to be the outpatient supervisor of the conservatee. The person in charge of these facilities shall notify the county mental health director or his or her designee of such agreement. At 90-day intervals following the commencement of the outpatient treatment, the outpatient supervisor shall make a report in writing to the conservator and to the person in charge of the mental health facility setting forth the status and progress of the conservatee.

(Amended by Stats. 1980, Ch. 681, Sec. 3.)

5358.7. When any conservatee challenges his or her placement or conditions of confinement pursuant to Section 1473 of the Penal Code or Section 7250 of the Welfare and Institutions Code, notwithstanding the continuing jurisdiction of the court which appointed the conservators, judicial review shall be in the county where the conservatorship was established or in the county in which the conservatee is placed or confined. If the conservatee is released as a result of the hearing, he or she shall be returned to the county where the conservatorship originated.

(Added by Stats. 1986, Ch. 226, Sec. 1.)

5359. A conservator appointed under this chapter shall find alternative placement for his conservatee within seven days after he is notified by the person in charge of the facility serving the conservatee that the conservatee no longer needs the care or treatment offered by that facility.

If unusual conditions or circumstances preclude alternative

placement of the conservatee within seven days, the conservator shall find such placement within 30 days.

If alternative placement cannot be found at the end of the 30-day period the conservator shall confer with the professional person in charge of the facility and they shall then determine the earliest practicable date when such alternative placement may be obtained.

(Amended by Stats. 1980, Ch. 676, Sec. 336.)

5360. The officer providing conservatorship investigation shall recommend, in his report to the court, for or against imposition of a disability set forth in Section 5357 on the basis of the determination of the professional person who recommended conservatorship pursuant to Section 5352.

The officer providing conservatorship investigation shall recommend in his report any of the additional powers of a conservator set forth in Section 2591 of the Probate Code if the needs of the individual patient or his estate require such powers. In making such determination, the officer providing conservatorship investigation shall consult with the professional person who recommended conservatorship pursuant to Section 5352.

(Amended by Stats. 1979, Ch. 730.)

5361. Conservatorship initiated pursuant to this chapter shall automatically terminate one year after the appointment of the conservator by the superior court. The period of service of a temporary conservator shall not be included in the one-year period. Where the conservator has been appointed as conservator of the estate, the conservator shall, for a reasonable time, continue to have such power and authority over the estate as the superior court, on petition by the conservator, may deem necessary for (1) the collection of assets or income which accrued during the period of conservatorship, but were uncollected before the date of termination, (2) the payment of expenses which accrued during period of conservatorship and of which the conservator was notified prior to termination, but were unpaid before the date of termination, and (3) the completion of sales of real property where the only act remaining at the date of termination is the actual transfer of title. If upon the termination of an initial or a succeeding period of conservatorship the conservator determines that conservatorship is still required, he may petition the superior court for his reappointment as conservator for a succeeding one-year period. The petition must include the opinion of two physicians or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders that the conservatee is still gravely disabled as a result of mental disorder or impairment by chronic alcoholism. In the event that the conservator is unable to obtain the opinion of two physicians or

psychologists, he shall request that the court appoint them.

Any facility in which a conservatee is placed must release the conservatee at his request when the conservatorship terminates. A petition for reappointment filed by the conservator or a petition for appointment filed by a public guardian shall be transmitted to the facility at least 30 days before the automatic termination date. The facility may detain the conservatee after the end of the termination date only if the conservatorship proceedings have not been completed and the court orders the conservatee to be held until the proceedings have been completed.

(Amended by Stats. 1979, Ch. 245.)

5362. (a) The clerk of the superior court shall notify each conservator, his or her conservatee and the person in charge of the facility in which the person resides, and the conservatee's attorney, at least 60 days before the termination of the one-year period. If the conservator is a private party, the clerk of the superior court shall also notify the mental health director and the county officer providing conservatorship investigation pursuant to Section 5355, at least 60 days before the termination of the one-year period. Notification shall be given in person or by first-class mail. The notification shall be in substantially the following form:

In the Superior Court of the State of California for the County of ____

The people of the State of California No. ____
Concerning Notice of Termination
_____ of Conservatorship
The people of the State of California to _____
:(conservatee, conservatee's attorney, conservator, and professional person in charge of the facility in which the conservatee resides, county mental health director, and county officer providing conservatorship investigation.)

The one-year conservatorship established for ____ pursuant to Welfare and Institutions Code Section ____ on ____ will terminate on ____. If the conservator, ____, wishes to reestablish conservatorship for another year he or she must petition the court by ____. Subject to a request for a court hearing by jury trial the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator petitions to reestablish conservatorship the conservatee, the professional person in charge of the facility in which he or she resides, the conservatee's attorney, and, if the conservator is a private party, the county mental health director and the county officer providing conservatorship investigation shall be notified. If any of them request it, there shall be a court hearing

or a jury trial, whichever is requested, on the issue of whether the conservatee is still gravely disabled and in need of conservatorship. If the private conservator does not petition for reappointment, the county officer providing conservatorship investigation may recommend another conservator. Such a petition shall be considered a petition for reappointment as conservator.

Clerk of the Superior Court

by _____

Deputy

(b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own motion, accept or reject the conservator's petition.

If the conservator does not petition to reestablish conservatorship at or before the termination of the one-year period, the court shall issue a decree terminating conservatorship. The decree shall be sent to the conservator and his or her conservatee by first-class mail and shall be accompanied by a statement of California law as set forth in Section 5368.

(Amended by Stats. 1985, Ch. 1239, Sec. 5.)

5363. In the event the conservator continues in good faith to act within the powers granted him in the original decree of conservatorship beyond the one-year period, he may petition for and shall be granted a decree ratifying his acts as conservator beyond the one-year period. The decree shall provide for a retroactive appointment of the conservator to provide continuity of authority in those cases where the conservator did not apply in time for reappointment.

(Added by Stats. 1967, Ch. 1667.)

5364. At any time, the conservatee may petition the superior court for a rehearing as to his status as a conservatee. However, after the filing of the first petition for rehearing pursuant to this section, no further petition for rehearing shall be submitted for a period of six months. If the conservatorship is terminated pursuant to this section, the court shall, in accordance with subdivision (c) of Section 2210 of the Elections Code, notify the county elections official that the person's right to register to vote is restored.

(Amended by Stats. 1994, Ch. 923, Sec. 270. Effective January 1, 1995.)

5365. A hearing shall be held on all petitions under this chapter within 30 days of the date of the petition. The court shall appoint the public defender or other attorney for the conservatee or proposed conservatee within five days after the date of the petition.

(Amended by Stats. 1972, Ch. 574.)

5365.1. The conservatee or proposed conservatee may, upon advice of counsel, waive the presence at any hearing under this chapter of the physician or other professional person who recommended conservatorship pursuant to Section 5352 and of the physician providing evaluation or intensive treatment. In the event of such a waiver, such physician and professional persons shall not be required to be present at the hearing if it is stipulated that the recommendation and records of such physician or other professional person concerning the mental condition and treatment of the conservatee or proposed conservatee will be received in evidence.

(Added by Stats. 1971, Ch. 1162.)

5366. On or before June 30, 1970, the medical director of each state hospital for the mentally disordered shall compile a roster of those mentally disordered or chronic alcoholic patients within the institution who are gravely disabled. The roster shall indicate the county from which each such patient was admitted to the hospital or, if the hospital records indicate that the county of residence of the patient is a different county, the county of residence. The officer providing conservatorship investigation for each county shall be given a copy of the names and pertinent records of the patients from that county and shall investigate the need for conservatorship for such patients as provided in this chapter. After his investigation and on or before July 1, 1972, the county officer providing conservatorship shall file a petition of conservatorship for such patients that he determines may need conservatorship. Court commitments under the provisions of law in effect prior to July 1, 1969, of such patients for whom a petition of conservatorship is not filed shall terminate and the patient shall be released unless he agrees to accept treatment on a voluntary basis.

Each state hospital and the State Department of Mental Health shall make their records concerning such patients available to the officer providing conservatorship investigation.

(Amended by Stats. 1977, Ch. 1252.)

5366.1. Any person detained as of June 30, 1969, under court commitment, in a private institution, a county psychiatric hospital, facility of the Veterans Administration, or other agency of the United States government, community mental health service, or detained in a state hospital or facility of the Veterans Administration upon application of a local health officer, pursuant to former Section 5567 or Sections 6000 to 6019, inclusive, as they read immediately preceding July 1, 1969, may be detained, after January 1, 1972, for a period no longer than 180 days, except as provided in this section.

Any person detained pursuant to this section on the effective date of this section shall be evaluated by the facility designated by the county and approved by the State Department of

Mental Health pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. Such evaluation shall be made at the request of the person in charge of the institution in which the person is detained. If in the opinion of the professional person in charge of the evaluation and treatment facility or his designee, the evaluation of the person can be made by such professional person or his designee at the institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the institution where he is detained, or other place to determine if the person is a danger to others, himself, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the institution in which he is detained immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his designee, the person evaluated is not a danger to others, or to himself, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to remain in the institution in which he has been detained.

If in the opinion of the professional person in charge of the facility or his designee, the person evaluated requires intensive treatment or recommendation for conservatorship, such professional person or his designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

If it is determined from the evaluation that the person is gravely disabled and a recommendation for conservatorship is made, and if the petition for conservatorship for such person is not filed by June 30, 1972, the court commitment or detention under a local health officer application for such person shall terminate and the patient shall be released unless he agrees to accept treatment on a voluntary basis.

(Amended by Stats. 1977, Ch. 1252.)

5367. Conservatorship established under this chapter shall supersede any commitment under former provisions of this code relating to inebriates or the mentally ill.

(Amended by Stats. 1968, Ch. 1374.)

5368. A person who is no longer a conservatee shall not be presumed to be incompetent by virtue of his having been a conservatee under the provisions of this part.

(Added by Stats. 1967, Ch. 1667.)

5369. When a conservatee who has criminal charges pending against him and has been found mentally incompetent under Section 1370 of the Penal Code recovers his mental competence, the conservator shall certify that fact to the court, sheriff, and district attorney

of the county in which the criminal charges are pending and to the defendant's attorney of record.

The court shall order the sheriff to immediately return the defendant to the court in which the criminal charges are pending. Within two judicial days of the defendant's return, the court shall hold a hearing to determine whether the defendant is entitled to be admitted to bail or released upon his own recognizance pending conclusion of criminal proceedings.

(Added by Stats. 1974, Ch. 1511.)

5370. Notwithstanding any other provision of law, a conservatorship proceeding may be initiated pursuant to this chapter for any person who has been charged with an offense, regardless of whether action is pending or has been initiated pursuant to Section 1370 of the Penal Code.

(Added by Stats. 1974, Ch. 1511.)

5370.1. The court in which a petition to establish a conservatorship is filed may appoint the county counsel or a private attorney to represent a private conservator in all proceedings connected with the conservatorship, if it appears that the conservator has insufficient funds to obtain the services of a private attorney. Such appointments of the county counsel, however, may be made only if the board of supervisors have, by ordinance or resolution, authorized the county counsel to accept them.

(Amended by Stats. 1980, Ch. 415, Sec. 1.)

5370.2. (a) Beginning January 1, 1993, the State Department of Mental Health shall contract with the contractor specified in subdivision (b) of Section 5510 to conduct the following activities:

(1) Provide patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including deaths of, persons with mental disabilities residing in state hospitals.

(2) Investigate and take action as appropriate and necessary to resolve complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, and unreasonable denial, or punitive withholding of rights guaranteed under this division that cannot be resolved by county patients' rights advocates.

(3) Provide consultation, technical assistance, and support to county patients' rights advocates in accordance with their duties under Section 5520.

(4) Conduct program review of patients' rights programs.

(b) The services shall be provided in coordination with the appropriate mental health patients' rights advocates.

(c) (1) The contractor shall develop a plan to provide

patients' rights advocacy services for, and conduct investigations of alleged or suspected abuse and neglect of, including the deaths of, persons with mental disabilities residing in state hospitals.

(2) The contractor shall develop the plan in consultation with the statewide organization of mental health patients' rights advocates, the statewide organization of mental health clients, and the statewide organization of family members of persons with mental disabilities, and the statewide organization of county mental health directors.

(d) Nothing contained in this section shall be construed to restrict or limit the authority of the department to conduct the reviews and investigations it deems necessary for personnel, criminal, and litigation purposes.

(e) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

(Added by Stats. 1992, Ch. 722, second Sec. 25. Effective September 15, 1992. Repealed as of January 1, 1996, by its own provisions.)

5371. No person upon whom a duty is placed to evaluate, or who, in fact, does evaluate a conservatee for any purpose under this chapter shall have a financial or other beneficial interest in the facility where the conservatee is to be, or has been placed.

Conservatorship investigation and administration shall be conducted independently from any person or agency which provides mental health treatment for conservatees, if it has been demonstrated that the existing arrangement creates a conflict of interest between the treatment needs of the conservatee and the investigation or administration of the conservatorship. The person or agency responsible for the mental health treatment of conservatees shall execute a written agreement or protocol with the conservatorship investigator and administrator for the provision of services to conservatees. The agreement or protocol shall specify the responsibilities of each person or agency who is a party to the agreement or protocol, and shall specify a procedure to resolve disputes or conflicts of interest between agencies or persons.

(Amended by Stats. 1986, Ch. 335, Sec. 2.)

CHAPTER 4. ADMINISTRATION

(Chapter 4 added by Stats. 1967, Ch. 1667.)

5400. The Director of Mental Health shall administer this part and shall adopt rules, regulations and standards as necessary. In developing rules, regulations, and standards, the Director of Mental Health shall consult with the California Conference of Local Mental Health Directors, the California Council on Mental Health, and

the office of the Attorney General. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

Wherever feasible and appropriate, rules, regulations and standards adopted under this part shall correspond to comparable rules, regulations, and standards adopted under the Short-Doyle Act. Such corresponding rules, regulations, and standards shall include qualifications for professional personnel.

Regulations adopted pursuant to this part may provide standards for services for chronic alcoholics which differ from the standards for services for the mentally disordered.

(Amended by Stats. 1985, Ch. 1232, Sec. 22. Effective September 30, 1985.)

5402. (a) The State Department of Mental Health shall collect and publish annually quantitative information concerning the operation of this division including the number of persons admitted for 72-hour evaluation and treatment, 14-day and 30-day periods of intensive treatment, and 180-day postcertification intensive treatment, the number of persons transferred to mental health facilities pursuant to Section 4011.6 of the Penal Code, the number of persons for whom temporary conservatorships are established, and the number of persons for whom conservatorships are established in each county.

(b) Each local mental health director, and each facility providing services to persons pursuant to this division, shall provide the department, upon its request, with any information, records, and reports which the department deems necessary for the purposes of this section. The department shall not have access to any patient name identifiers.

(c) Information published pursuant to this section shall not contain patient name identifiers and shall contain statistical data only.

(d) The department shall make the reports available to medical, legal, and other professional groups involved in the implementation of this division.

(Amended by Stats. 1991, Ch. 611, Sec. 33. Effective October 7, 1991.)

5402.2. The Director of Mental Health shall develop a master plan for the utilization of state hospital facilities identifying levels of care. The level of care shall be either general acute care, skilled nursing care, subacute, intermediate care, or residential care.

(Added by Stats. 1988, Ch. 1517, Sec. 15.)

5403. (a) From July 1, 1991 to June 30, 1993, inclusive,

regulations promulgated by the department shall not be subject to the approval of the California Conference of Local Mental Health Directors. The impact of this subdivision on regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(b) The department shall continue to involve the conference in the development of all regulations which affect local mental health programs prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

(Amended by Stats. 1991, Ch. 611, Sec. 34. Effective October 7, 1991.)

5404. Each county may designate facilities, which are not hospitals or clinics, as 72-hour evaluation and treatment facilities and as 14-day intensive treatment facilities if such facilities meet such requirements as the Director of Mental Health shall establish by regulation. The Director of Mental Health shall encourage the use by counties of appropriate facilities, which are not hospitals or clinics, for the evaluation and treatment of patients pursuant to this part.

(Amended by Stats. 1977, Ch. 1252.)

CHAPTER 6.2. MENTAL HEALTH ADVOCACY

(Heading of Chapter 6.2 renumbered from Chapter 6 (as added by Stats. 1981, Ch. 841) by Stats. 1986, Ch. 248, Sec. 251.)

Article 1. General Provisions

(Article 1 added by Stats. 1981, Ch. 841, Sec. 7.)

5500. As used in this chapter:

(a) "Advocacy" means those activities undertaken on behalf of persons who are receiving or have received mental health services to protect their rights or to secure or upgrade treatment or other services to which they are entitled.

(b) "Mental health client" or "client" means any person who is receiving or has received services from a mental health facility, service or program and who has personally or through a guardian ad litem, entered into an agreement with a county patients' rights advocate for the provision of advocacy services.

(c) "Mental health facilities, services, or programs" means any publicly operated or supported mental health facility or program; any private facility or program licensed or operated for health purposes providing services to mentally disordered persons; and

publicly supported agencies providing other than mental health services to mentally disordered clients.

(d) "Independent of providers of service" means that the advocate has no direct or indirect clinical or administrative responsibility for any recipient of mental health services in any mental health facility, program, or service for which he or she performs advocacy activities.

(e) "County patients' rights advocate" means any advocate appointed, or whose services are contracted for, by a local mental health director.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

Article 2. Patients' Rights Office

(Article 2 added by Stats. 1981, Ch. 841, Sec. 7.)

5510. (a) The Legislature finds and declares as follows:

(1) The State of California accepts as responsibility to ensure and uphold the right of persons with mental disabilities and an obligation, to be executed by the State Department of Mental Health, to ensure that mental health laws, regulations and policies on the rights of recipients of mental health services are observed and protected in state hospitals and in licensed health and community care facilities.

(2) Persons with mental disabilities are vulnerable to abuse, neglect, and unreasonable and unlawful deprivations of their rights.

(3) Patients' rights advocacy and investigative services concerning patient abuse and neglect currently provided by the State Department of Mental Health, including the department's Office of Human Rights and investigator, and state hospital patients' rights advocates and state hospital investigators, vary widely in their effectiveness and these advocates and investigators may have conflicts of interest.

(4) The services provided to patients and their families is of such a special and unique nature that they cannot satisfactorily be provided by state agencies.

(5) The protection and advocacy agency specified in Section 4901 is the sole nongovernmental agency capable of administering the functions described in this section for the following reasons:

(A) The agency is the nonprofit corporation designated by the Governor in this state pursuant to federal law for the protection and advocacy of the rights of persons with developmental and mental disabilities.

(B) The agency is publicly accountable in that a majority of the board of directors are appointed by the Governor and the Legislature.

(C) The agency has demonstrated an ability to conduct statewide advocacy and investigatory functions to the benefit of persons with developmental and mental disabilities.

(b) Therefore, it is the intent of the Legislature that the patients' rights advocacy and investigative services described in this article be administered by the protection and advocacy agency specified in Section 4901, that is independent of any system or program that directly or indirectly provides mental health services or care, other than patients' rights advocacy services, to persons with mental disabilities.

(c) For the purposes of this article, the Legislature further finds and declares that the goals and purposes of the state patients' rights advocacy and investigative services cannot be accomplished through the utilization of persons selected pursuant to the regular civil service system. Accordingly, contracts into which the department enters pursuant to this section are permitted and authorized by paragraph (5) of subdivision (b) of Section 19130 of the Government Code.

(d) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute that is chaptered on or before January 1, 1996, deletes or extends that date.

(Amended by Stats. 1992, Ch. 722, second Sec. 26. Effective September 15, 1992. Repealed as of January 1, 1996, by its own provisions. See later operative version added by Sec. 27 of Ch. 722.)

5510. The Patients' Rights Office is hereby established in the State Department of Mental Health which shall be responsible for ensuring that mental health laws, regulations and policies on the rights of recipients of mental health services are observed in state hospitals and in licensed health and community care facilities.

This section shall become operative on January 1, 1996.

(Repealed (by Sec. 26) and added by Stats. 1992, Ch. 722, second Sec. 27. Effective September 15, 1992. Operative January 1, 1996, by its own provisions.)

5511. The Director of Mental Health or the executive director of each state hospital serving mentally disordered persons may contract with independent persons or agencies to perform patients' rights advocacy services in state hospitals.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5512. The protection and advocacy specified in Section 4901 shall provide training to county patients' rights advocates. Training shall be directed at ensuring that all county patients' rights advocates possess:

(a) Knowledge of the service system, financial

entitlements, and service rights of persons receiving mental health services.

(b) Knowledge of patients' rights in institutional and community facilities.

(c) Knowledge of civil commitment statutes and procedures.

(d) Knowledge of state and federal laws and regulations affecting recipients of mental health services.

(e) Ability to work effectively with service recipients and providers, public administrators, community groups, and the judicial system.

(f) Skill in interviewing and counseling service recipients, including giving information and appropriate referrals.

(g) Ability to investigate and assess complaints and screen for legal problems.

(h) Knowledge of administrative and judicial due process proceedings in order to provide representation at administrative hearings and to assist in judicial hearings when necessary to carry out the intent of Section 5522 regarding cooperation between advocates and legal representatives.

(i) Knowledge of, and commitment to, advocacy ethics and principles.

(j) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute that is chaptered prior to January 1, 1996, deletes or extends that date.

(Amended by Stats. 1992, Ch. 722, second Sec. 28. Effective September 15, 1992. Repealed as of January 1, 1996, by its own provisions. See later operative version added by Sec. 29 of Ch. 722.)

5512. The Patients' Rights Office shall provide training to county patients' rights advocates. Training shall be directed at ensuring that all county patients' rights advocates possess:

(a) Knowledge of the service system, financial entitlements, and service rights of persons receiving mental health services.

(b) Knowledge of patients' rights in institutional and community facilities.

(c) Knowledge of civil commitment statutes and procedures.

(d) Knowledge of state and federal laws and regulations affecting recipients of mental health services.

(e) Ability to work effectively with service recipients and providers, public administrators, community groups, and the judicial system.

(f) Skill in interviewing and counseling service recipients, including giving information and appropriate referrals.

(g) Ability to investigate and assess complaints and screen for legal problems.

(h) Knowledge of administrative and judicial due process proceedings in order to provide representation at administrative hearings and to assist in judicial hearings when necessary to carry out the intent of Section 5522 regarding cooperation between advocates and legal representatives.

(i) Knowledge of, and commitment to, advocacy ethics and principles.

(j) This section shall become operative on January 1, 1996.

(Repealed (by Sec. 28) and added by Stats. 1992, Ch. 722, Sec. 29. Effective September 15, 1992. Section operative January 1, 1996, by its own provisions.)

5513. The Patients' Rights Office shall serve as a liaison between county patients' rights advocates and the State Department of Mental Health.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5514. There shall be a five-person Patients' Rights Subcommittee of the California Council on Mental Health. This subcommittee, supplemented by two ad hoc members appointed by the chairperson of the subcommittee, shall advise the Director of Mental Health regarding department policies and practices that affect patients' rights. The subcommittee shall also review the advocacy and patients' rights components of each county Short-Doyle plan and advise the Director of Mental Health concerning the adequacy of each plan in protecting patients' rights. The ad hoc members of the subcommittee shall be persons with substantial experience in establishing and providing independent advocacy services to recipients of mental health services.

(Amended by Stats. 1985, Ch. 1232, Sec. 23. Effective September 30, 1985.)

Article 3. County Advocates

(Article 3 added by Stats. 1981, Ch. 841, Sec. 7.)

5520. Each local mental health director shall appoint, or contract for the services of, one or more county patients' rights advocates. The duties of these advocates shall include, but not be limited to, the following:

(a) To receive and investigate complaints from or concerning recipients of mental health services residing in licensed health or community care facilities regarding abuse, unreasonable denial or punitive withholding of rights guaranteed under the provisions of Division 5 (commencing with Section 5000).

(b) To monitor mental health facilities, services and programs for compliance with statutory and regulatory patients'

rights provisions.

(c) To provide training and education about mental health law and patients' rights to mental health providers.

(d) To ensure that recipients of mental health services in all licensed health and community care facilities are notified of their rights.

(e) To exchange information and cooperate with the Patients' Rights Office.

This section does not constitute a change in, but is declarative of the existing law.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5521. It is the intent of the Legislature that legal representation regarding changes in client legal status or conditions and other areas covered by statute providing for local public defender or court-appointed attorney representation, shall remain the responsibility of local agencies, in particular the county public defender. County patients' rights advocates shall not duplicate, replace, or conflict with these existing or mandated local legal representations. This section shall not be construed to prevent maximum cooperation between legal representatives and providers of advocacy services.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5522. County patients' rights advocates may conduct investigations if there is probable cause to believe that the rights of a past or present recipient of mental health services have been, may have been, or may be violated.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5523. (a) Notwithstanding any other provision of law, and without regard to the existence of a guardianship or conservatorship, a recipient of mental health services is presumed competent for the purpose of entering into an agreement with county patients' rights advocates for the provision of advocacy services unless found by the superior court to be incompetent to enter into an agreement with an advocate and a guardian ad litem is appointed for such purposes.

(b) In conducting investigations in cases in which an advocate has not received a request for advocacy services from a recipient of mental health services or from another person on behalf of a recipient of mental health services, the advocate shall notify the treating professional responsible for the care of any recipient of services whom the advocate wishes to interview, and the facility, service, or program administrator, of his or her intention to conduct such an interview. Whenever the treating professional is reasonably available for consultation, the advocate shall consult with the professional concerning the appropriate time to conduct the interview.

(c) Any agreement with any county patients' rights advocate

entered into by a mental health client shall be made knowingly and voluntarily or by a guardian ad litem. It shall be in a language or modality which the client understands. Any such agreement may, at any time, be revoked by the client or by the guardian ad litem, whoever has entered into the agreement, either in writing or by oral declaration to the advocate.

(d) Nothing in this chapter shall be construed to prohibit a recipient of mental health services from being represented by public or private legal counsel of his or her choice.

(e) The remedies provided by this chapter shall be in addition to any other remedies which may be available to any person, and the failure to pursue or exhaust the remedies or engage in the procedures provided by this chapter shall not preclude the invocation of any other remedy.

(f) Investigations concerning violations of a past recipients' rights shall be limited to cases involving discrimination, cases indicating the need for education or training, or cases having a direct bearing on violations of the right of a current recipient. This subdivision is not intended to constrain the routine monitoring for compliance with patients' rights provisions described in subdivision (b) of Section 5520.

(Amended by Stats. 1984, Ch. 193, Sec. 151.)

Article 4. Access to Clients

(Article 4 added by Stats. 1981, Ch. 841, Sec. 7.)

5530. (a) County patients' rights advocates shall have access to all clients and other recipients of mental health services in any mental health facility, program, or service at all times as are necessary to investigate or resolve specific complaints and in accord with subdivision (b) of Section 5523. County patients' rights advocates shall have access to mental health facilities, programs, and services, and recipients of services therein during normal working hours and visiting hours for other advocacy purposes. Advocates may appeal any denial of access directly to the head of any facility, the director of a county mental health program or the State Department of Mental Health or may seek appropriate relief in the courts. If a petition to a court sets forth prima facie evidence for relief, a hearing on the merits of the petition shall be held within two judicial days of the filing of the petition. The superior court for the county in which the facility is located shall have jurisdiction to review petitions filed pursuant to this chapter.

(b) County patients' rights advocates shall have the right to interview all persons providing the client with diagnostic or treatment services.

(c) Upon request, all mental health facilities shall, when

available, provide reasonable space for county patients' rights advocates to interview clients in privacy and shall make appropriate staff persons available for interview with the advocates in connection with pending matters.

(d) Individual patients shall have a right to privacy which shall include the right to terminate any visit by persons who have access pursuant to this chapter and the right to refuse to see any patient advocate.

(e) Notice of the availability of advocacy services and information about patients' rights may be provided by county patients' rights advocates by means of distribution of educational materials and discussions in groups and with individual patients.

(Amended by Stats. 1983, Ch. 101, Sec. 170.)

Article 5. Access to Records

(Article 5 added by Stats. 1981, Ch. 841, Sec. 7.)

5540. Except as otherwise provided in this chapter or in other provisions of law, information about and records of recipients of mental health services shall be confidential in accordance with the provisions of Section 5328.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5541. (a) A specific authorization by the client or by the guardian ad litem is necessary for a county patients' rights advocate to have access to, copy or otherwise use confidential records or information pertaining to the client. Such an authorization shall be given knowingly and voluntarily by a client or guardian ad litem and shall be in writing or be reduced to writing. The client or the guardian ad litem, whoever has entered into the agreement, may revoke such authorization at any time, either in writing or by oral declaration to the advocate.

(b) When specifically authorized by the client or the guardian ad litem, the county patients' rights advocate may inspect and copy confidential client information and records.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5542. County patients' rights advocates shall have the right to inspect or copy, or both, any records or other materials not subject to confidentiality under Section 5328 or other provisions of law in the possession of any mental health program, services, or facilities, or city, county or state agencies relating to an investigation on behalf of a client or which indicate compliance or lack of compliance with laws and regulations governing patients' rights, including, but not limited to, reports on the use of restraints or seclusion, and autopsy reports.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5543. (a) Notwithstanding any other provision of law, with the authorization of the client, a county patients' rights advocate may, to the extent necessary for effective advocacy, communicate to the client information contained in client records. The facility program, or agency, shall be allowed to remove from the records any information provided in confidence by members of a client's family.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5544. Any written client information obtained by county patients' rights advocates may be used and disseminated in court or administrative proceedings, and to any public agencies, or authorized officials thereof, to the extent required in the providing of advocacy services defined in this chapter, and to the extent that authority to so disclose is obtained from the advocate's clients.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5545. Nothing in this chapter shall be construed to limit access to recipients of mental health services in any mental health facility, program, or service or to information or records of recipients of mental health services for the purposes of subdivision (b) of Section 5520 or when otherwise authorized by law to county patients' rights advocates or other individuals who are not county patients' rights advocates.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

5546. The actual cost of copying any records or other materials authorized under this chapter, plus any additional reasonable clerical costs, incurred in locating and making the records and materials available, shall be borne by the advocate. The additional clerical costs shall be based on a computation of the time spent locating and making the records available multiplied by the employee's hourly wage.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

Article 6. Penalties

(Article 6 added by Stats. 1981, Ch. 841, Sec. 7.)

5550. (a) Any person participating in filing a complaint or providing information pursuant to this chapter or participating in a judicial proceeding resulting therefrom shall be presumed to be acting in good faith and unless the presumption is rebutted shall be immune from any liability, civil or criminal, and shall be immune from any penalty, sanction, or restriction that otherwise might be incurred or imposed.

(b) No person shall knowingly obstruct any county patients' rights advocate in the performance of duties as described in this chapter, including, but not limited to, access to clients or potential clients, or to their records, whether financial, medical, or otherwise, or to other information, materials, or records, or otherwise violate the provisions of this chapter.

(c) No facility to which the provisions of Section 5325 are applicable shall discriminate or retaliate in any manner against a patient or employee on the basis that such patient or employee has initiated or participated in any proceeding specified in this chapter. Any attempt by a facility to expel a patient, or any discriminatory treatment of a patient, who, or upon whose behalf, a complaint has been submitted to a county patients' rights advocate within 120 days of the filing of the complaint shall raise a rebuttable presumption that such action was taken by the facility in retaliation for the filing of the complaint.

(d) No county patients' rights advocate shall knowingly violate any provision of this chapter concerning client privacy and the confidentiality of personally identifiable information.

(e) Any person or facility found in violation of subdivision (b) or (d) shall pay a civil penalty, as determined by a court, of not less than one hundred dollars ($100), or more than one thousand dollars ($1,000) which shall be deposited in the county general funds.

(Added by Stats. 1981, Ch. 841, Sec. 7.)

PART 1.5. CHILDREN'S CIVIL COMMITMENT AND MENTAL HEALTH TREATMENT ACT OF 1988

(Part 1.5 added by Stats. 1988, Ch. 1202, Sec. 2.)

CHAPTER 1. GENERAL PROVISIONS

(Chapter 1 added by Stats. 1988, Ch. 1202, Sec. 2.)

5585. This part shall be known as the Children's Civil Commitment and Mental Health Treatment Act of 1988.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.10. This part shall be construed to promote the legislative intent and purposes of this part as follows:

(a) To provide prompt evaluation and treatment of mentally disordered minors, with particular priority given to seriously emotionally disturbed children and adolescents.

(b) To safeguard the rights to due process for minors and

their families through judicial review.

(c) To provide individualized treatment, supervision, and placement services for gravely disabled minors.

(d) To prevent severe and long-term mental disabilities among minors through early identification, effective family service interventions, and public education.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.20. This part shall apply only to the initial 72 hours of mental health evaluation and treatment provided to a minor. Notwithstanding the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), unless the context otherwise requires, the definitions and procedures contained in this part shall, for the initial 72 hours of evaluation and treatment, govern the construction of state law governing the civil commitment of minors for involuntary treatment. To the extent that this part conflicts with any other provisions of law, it is the intent of the Legislature that this part shall apply. Evaluation and treatment of a minor beyond the initial 72 hours shall be pursuant to the Lanterman-Petris-Short Act (Part 1(commencing with Section 5000)).

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.21. The Director of Mental Health may promulgate regulations as necessary to implement and clarify the provisions of this part as they relate to minors.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.22. The Director of Mental Health, in consultation with the California Conference of Local Mental Health Directors, may develop the appropriate educational materials and a training curriculum, and may provide training as necessary to assure those persons providing services pursuant to this part fully understand its purpose.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.25. "Gravely disabled minor" means a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others. Mental retardation, epilepsy, or other developmental disabilities, alcoholism, other drug abuse, or repeated antisocial behavior do not, by themselves, constitute a mental disorder.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

CHAPTER 2. CIVIL COMMITMENT OF MINORS

(Chapter 2 added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.50. When any minor, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the minor into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for seventy-two hour treatment and evaluation of minors. The facility shall make every effort to notify the minor's parent or legal guardian as soon as possible after the minor is detained.

The facility shall require an application in writing stating the circumstances under which the minor's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the minor is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled and authorization for voluntary treatment is not available. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, the person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.52. Any minor detained under the provisions of Section 5585.50 shall receive a clinical evaluation consisting of multidisciplinary professional analyses of the minor's medical, psychological, developmental, educational, social, financial, and legal conditions as may appear to constitute a problem. This evaluation shall include a psychosocial evaluation of the family or living environment, or both. Persons providing evaluation services shall be properly qualified professionals with training or supervised experience, or both, in the diagnosis and treatment of minors. Every effort shall be made to involve the minor's parent or legal guardian in the clinical evaluation.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.53. If, in the opinion of the professional person conducting the evaluation as specified in Section 5585.52, the minor will require additional mental health treatment, a treatment plan shall be written and shall identify the least restrictive placement alternative in which the minor can receive the necessary treatment. The family, legal guardian, or caretaker and the minor shall be consulted and informed as to the basic recommendations for further

treatment and placement requirements. Every effort shall be made to obtain the consent of the minor's parent or legal guardian prior to treatment and placement of the minor. Inability to obtain the consent of the minor's parent or legal guardian shall not preclude the involuntary treatment of a minor who is determined to be gravely disabled or a danger to himself or herself or others. Involuntary treatment shall only be allowed in accordance with the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.55. The minor committed for involuntary treatment under this part shall be placed in a health facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour evaluation and treatment. Except as provided for in Section 5751.7, each county shall assure that minors under the age of 16 years are not held with adults receiving psychiatric treatment under the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.57. A mentally ill minor, upon being considered for release from involuntary treatment, shall have an aftercare plan developed. The plan shall include educational or training needs, provided these are necessary for the minor's well-being.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

5585.58. This part shall be funded under the Bronzan-McCorquodale Act pursuant to Part 2 (commencing with Section 5600), as part of the county performance contract.

(Amended by Stats. 1993, Ch. 1245, Sec. 8. Effective October 11, 1993.)

5585.59. For the purposes of this part, legally emancipated minors requiring involuntary treatment shall be considered adults and this part shall not apply.

(Added by Stats. 1988, Ch. 1202, Sec. 2.)

PART 2. THE BRONZAN-MCCORQUODALE ACT

(Heading of Part 2 amended by Stats. 1992, Ch. 1374, Sec. 14. Effective October 28, 1992.)

CHAPTER 1. GENERAL PROVISIONS

(Chapter 1 added by Stats. 1968, Ch. 989.)

5600. (a) This part shall be known and may be cited as the Bronzan-McCorquodale Act. This part is intended to organize and finance community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. It is furthermore intended to better utilize existing resources at both the state and local levels in order to improve the effectiveness of necessary mental health services; to integrate state-operated and community mental health programs into a unified mental health system; to ensure that all mental health professions be appropriately represented and utilized in the mental health programs; to provide a means for participation by local governments in the determination of the need for and the allocation of mental health resources under the jurisdiction of the state; and to provide a means of allocating mental health funds deposited in the Local Revenue Fund equitably among counties according to community needs.

(b) With the exception of those referring to Short-Doyle Medi-Cal services, any other provisions of law referring to the Short-Doyle Act shall be construed as referring to the Bronzan-McCorquodale Act.

(Amended by Stats. 1991, Ch. 89, Sec. 63. Effective June 30, 1991.)

5600.1. The mission of California's mental health system shall be to enable persons experiencing severe and disabling mental illnesses and children with serious emotional disturbances to access services and programs that assist them, in a manner tailored to each individual, to better control their illness, to achieve their personal goals, and to develop skills and supports leading to their living the most constructive and satisfying lives possible in the least restrictive available settings.

(Amended by Stats. 1991, Ch. 611, Sec. 35. Effective October 7, 1991.)

5600.2. To the extent resources are available, public mental health services in this state should be provided to priority target populations in systems of care that are client-centered, culturally competent, and fully accountable, and which include the following factors:

(a) Client-Centered Approach. All services and programs designed for persons with mental disabilities should be client centered, in recognition of varying individual goals, diverse needs, concerns, strengths, motivations, and disabilities. Persons with mental disabilities:

(1) Retain all the rights, privileges, opportunities, and responsibilities of other citizens unless specifically limited by federal or state law or regulations.

(2) Are the central and deciding figure, except where

specifically limited by law, in all planning for treatment and rehabilitation based on their individual needs. Planning should also include family members and friends as a source of information and support.

(3) Shall be viewed as total persons and members of families and communities. Mental health services should assist clients in returning to the most constructive and satisfying lifestyles of their own definition and choice.

(4) Should receive treatment and rehabilitation in the most appropriate and least restrictive environment, preferably in their own communities.

(5) Should have an identifiable person or team responsible for their support and treatment.

(6) Shall have available a mental health advocate to ensure their rights as mental health consumers pursuant to Section 5521.

(b) Priority Target Populations. Persons with serious mental illnesses have severe, disabling conditions that require treatment, giving them a high priority for receiving available services.

(c) Systems of Care. The mental health system should develop coordinated, integrated, and effective services organized in systems of care to meet the unique needs of children and youth with serious emotional disturbances, and adults, older adults, and special populations with serious mental illnesses. These systems of care should operate in conjunction with an interagency network of other services necessary for individual clients.

(d) Outreach. Mental health services should be accessible to all consumers on a 24-hour basis in times of crisis. Assertive outreach should make mental health services available to homeless and hard-to-reach individuals with mental disabilities.

(e) Multiple Disabilities. Mental health services should address the special needs of children and youth, adults, and older adults with dual and multiple disabilities.

(f) Quality of Service. Qualified individuals trained in the client-centered approach should provide effective services based on measurable outcomes and deliver those services in environments conducive to clients' well-being.

(g) Cultural Competence. All services and programs at all levels should have the capacity to provide services sensitive to the target populations' cultural diversity. Systems of care should:

(1) Acknowledge and incorporate the importance of culture, the assessment of cross-cultural relations, vigilance towards dynamics resulting from cultural differences, the expansion of cultural knowledge, and the adaptation of services to meet culturally unique needs.

(2) Recognize that culture implies an integrated pattern of human behavior, including language, thoughts, beliefs, communications, actions, customs, values, and other institutions of racial, ethnic,

religious, or social groups.

(3) Promote congruent behaviors, attitudes, and policies enabling the system, agencies, and mental health professionals to function effectively in cross-cultural institutions and communities.

(h) Community Support. Systems of care should incorporate the concept of community support for individuals with mental disabilities and reduce the need for more intensive treatment services through measurable client outcomes.

(i) Self-Help. The mental health system should promote the development and use of self-help groups by individuals with serious mental illnesses so that these groups will be available in all areas of the state.

(j) Outcome Measures. State and local mental health systems of care should be developed based on client-centered goals and evaluated by measurable client outcomes.

(k) Administration. Both state and local departments of mental health should manage programs in an efficient, timely, and cost-effective manner.

(l) Research. The mental health system should encourage basic research into the nature and causes of mental illnesses and cooperate with research centers in efforts leading to improved treatment methods, service delivery, and quality of life for mental health clients.

(m) Education on Mental Illness. Consumer and family advocates for mental health should be encouraged and assisted in informing the public about the nature of mental illness from their viewpoint and about the needs of consumers and families. Mental health professional organizations should be encouraged to disseminate the most recent research findings in the treatment and prevention of mental illness.

(Amended by Stats. 1992, Ch. 1374, Sec. 15. Effective October 28, 1992.)

5600.3. To the extent resources are available, the primary goal of use of funds deposited in the mental health account of the local health and welfare trust fund should be to serve the target populations identified in the following categories, which shall not be construed as establishing an order of priority:

(a) (1) Seriously emotionally disturbed children or adolescents.

(2) For the purposes of this part, "seriously emotionally disturbed children or adolescents" means minors under the age of 18 years who have a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a primary substance use disorder or developmental disorder, which results in behavior inappropriate to the child's age according to expected developmental norms. Members of this target population shall meet one or more of the following criteria:

(A) As a result of the mental disorder the child has substantial impairment in at least two of the following areas: self-care, school functioning, family relationships, or ability to function in the community; and either of the following occur:

(i) The child is at risk of removal from home or has already been removed from the home.

(ii) The mental disorder and impairments have been present for more than six months or are likely to continue for more than one year without treatment.

(B) The child displays one of the following: psychotic features, risk of suicide or risk of violence due to a mental disorder.

(C) The child meets special education eligibility requirements under Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code.

(b) (1) Adults and older adults who have a serious mental disorder.

(2) For the purposes of this part "serious mental disorder" means a mental disorder which is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include, but are not limited to, schizophrenia, as well as major affective disorders or other severely disabling mental disorders. This section shall not be construed to exclude persons with a serious mental disorder and a diagnosis of substance abuse, developmental disability, or other physical or mental disorder.

(3) Members of this target population shall meet all of the following criteria:

(A) The person has a mental disorder as identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders, other than a substance use disorder or developmental disorder or acquired traumatic brain injury pursuant to subdivision (a) of Section 4354 unless that person also has a serious mental disorder as defined in paragraph (2).

(B) (i) As a result of the mental disorder the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms.

(ii) For the purposes of this part, "functional impairment" means being substantially impaired as the result of a mental disorder in independent living, social relationships, vocational skills, or physical condition.

(C) As a result of a mental functional impairment and circumstances the person is likely to become so disabled as to require public assistance, services, or entitlements.

(4) For the purpose of organizing outreach and treatment options, to the extent resources are available, this target population includes, but is not limited to, persons who are any of the following:

(A) Homeless persons who are mentally ill.

(B) Persons evaluated by appropriately licensed persons as requiring care in acute treatment facilities including state hospitals, acute inpatient facilities, institutes for mental disease, and crisis residential programs.

(C) Persons arrested or convicted of crimes.

(D) Persons who require acute treatment as a result of a first episode of mental illness with psychotic features.

(c) Adults or older adults who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality, or violence.

(d) Persons who need brief treatment as a result of a natural disaster or severe local emergency.

(Amended by Stats. 1992, Ch. 1374, Sec. 16. Effective October 28, 1992.)

5600.35. (a) Services should be encouraged in every geographic area to the extent resources are available for clients in the target population categories described in Section 5600.3.

(b) Services to the target populations should be planned and delivered so as to ensure statewide access by members of the target populations, including all ethnic groups in the state.

(Added by Stats. 1991, Ch. 89, Sec. 69. Effective June 30, 1991.)

5600.4. Community mental health services should be organized to provide an array of treatment options in the following areas, to the extent resources are available:

(a) Precrisis and Crisis Services. Immediate response to individuals in precrisis and crisis and to members of the individual's support system, on a 24-hour, seven-day-a-week basis. Crisis services may be provided offsite through mobile services. The focus of precrisis services is to offer ideas and strategies to improve the person's situation, and help access what is needed to avoid crisis. The focus of crisis services is stabilization and crisis resolution, assessment of precipitating and attending factors, and recommendations for meeting identified needs.

(b) Comprehensive Evaluation and Assessment. Includes, but is not limited to, evaluation and assessment of physical and mental health, income support, housing, vocational training and employment, and social support services needs. Evaluation and assessment may be provided offsite through mobile services.

(c) Individual Service Plan. Identification of the short- and long-term service needs of the individual, advocating for, and

coordinating the provision of these services. The development of the plan should include the participation of the client, family members, friends, and providers of services to the client, as appropriate.

(d) Medication Education and Management. Includes, but is not limited to, evaluation of the need for administration of, and education about, the risks and benefits associated with medication. Clients should be provided this information prior to the administration of medications pursuant to state law. To the extent practicable, families and caregivers should also be informed about medications.

(e) Case Management. Client-specific services that assist clients in gaining access to needed medical, social, educational, and other services. Case management may be provided offsite through mobile services.

(f) Twenty-four Hour Treatment Services. Treatment provided in any of the following: an acute psychiatric hospital, an acute psychiatric unit of a general hospital, a psychiatric health facility, an institute for mental disease, a community treatment facility, or community residential treatment programs, including crisis, transitional and long-term programs.

(g) Rehabilitation and Support Services. Treatment and rehabilitation services designed to stabilize symptoms, and to develop, improve, and maintain the skills and supports necessary to live in the community. These services may be provided through various modes of services, including, but not limited to, individual and group counseling, day treatment programs, collateral contacts with friends and family, and peer counseling programs. These services may be provided offsite through mobile services.

(h) Vocational Rehabilitation. Services which provide a range of vocational services to assist individuals to prepare for, obtain, and maintain employment.

(i) Residential Services. Room and board and 24-hour care and supervision.

(j) Services for Homeless Persons. Services designed to assist mentally ill persons who are homeless, or at risk of being homeless, to secure housing and financial resources.

(k) Group Services. Services to two or more clients at the same time.

(Amended by Stats. 1993, Ch. 1245, Sec. 9. Effective October 11, 1993.)

5600.5. The minimum array of services for children and youth meeting the target population criteria established in subdivision (a) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services.

(b) Assessment.

(c) Medication education and management.

(d) Case management.

(e) Twenty-four-hour treatment services.

(f) Rehabilitation and support services designed to alleviate symptoms and foster development of age appropriate cognitive, emotional, and behavioral skills necessary for maturation.

(Amended by Stats. 1992, Ch. 1374, Sec. 18. Effective October 28, 1992.)

5600.6. The minimum array of services for adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services.

(b) Assessment.

(c) Medication education and management.

(d) Case management.

(e) Twenty-four-hour treatment services.

(f) Rehabilitation and support services.

(g) Vocational services.

(h) Residential services.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 75. Effective June 30, 1991.)

5600.7. The minimum array of services for older adults meeting the target population criteria established in subdivision (b) of Section 5600.3 should include the following modes of service in every geographical area, to the extent resources are available:

(a) Precrisis and crisis services, including mobile services.

(b) Assessment, including mobile services.

(c) Medication education and management.

(d) Case management, including mobile services.

(e) Twenty-four-hour treatment services.

(f) Residential services.

(g) Rehabilitation and support services, including mobile services.

(Amended by Stats. 1991, Ch. 611, Sec. 41. Effective October 7, 1991.)

5600.9. (a) Services to the target populations described in Section 5600.3 should be planned and delivered to the extent practicable so that persons in all ethnic groups are served with programs that meet their cultural needs.

(b) Services in rural areas should be developed in flexible ways, and may be designed to meet the needs of the indigent and uninsured who are in need of public mental health services because other private services are not available.

(c) To the extent permitted by law, counties should maximize all available funds for the provision of services to the target populations. Counties are expressly encouraged to develop interagency programs and to blend services and funds for individuals with multiple problems, such as those with mental illness and substance abuse, and children, who are served by multiple agencies. State departments are directed to assist counties in the development of mechanisms to blend funds and to seek any necessary waivers which may be appropriate.

(Amended by Stats. 1991, Ch. 611, Sec. 42. Effective October 7, 1991.)

5601. As used in this part:

(a) "Governing body" means the county board of supervisors or boards of supervisors in the case of counties acting jointly; and in the case of a city, the city council or city councils acting jointly.

(b) "Conference" means the California Conference of Local Mental Health Directors as established under Section 5757.

(c) Unless the context requires otherwise, "to the extent resources are available" means to the extent that funds deposited in the mental health account of the local health and welfare fund are available to an entity qualified to use those funds.

(d) "Part 1" refers to the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)).

(e) "Director of Mental Health" or "director" means the Director of the State Department of Mental Health.

(f) "Institution" includes a general acute care hospital, a state hospital, a psychiatric hospital, a psychiatric health facility, a skilled nursing facility, including an institution for mental disease as described in Chapter 1 (commencing with Section 5900) of Part 5, an intermediate care facility, a community care facility or other residential treatment facility, or a juvenile or criminal justice institution.

(g) "Mental health service" means any service directed toward early intervention in, or alleviation or prevention of, mental disorder, including, but not limited to, diagnosis, evaluation, treatment, personal care, day care, respite care, special living arrangements, community skill training, sheltered employment, socialization, case management, transportation, information, referral, consultation, and community services.

(Amended by Stats. 1991, Ch. 89, Sec. 80. Effective June 30, 1991.)

5602. The board of supervisors of every county, or the boards of supervisors of counties acting under the joint powers provisions of Article 1 (commencing with Section 6500) of Chapter 5 of

Division 7 of Title 1 of the Government Code shall establish a community mental health service to cover the entire area of the county or counties. Services of the State Department of Mental Health shall be provided to the county, or counties acting jointly, or, if both parties agree, the state facilities may, in whole or in part, be leased, rented or sold to the county or counties for county operation, subject to terms and conditions approved by the Director of General Services.

(Amended by Stats. 1991, Ch. 89, Sec. 81. Effective June 30, 1991.)

5604. (a) Each community mental health service shall have a mental health board consisting of 10 to 15 members, depending on the preference of the county, appointed by the governing body except that boards in counties with a population of less than 80,000 may have a minimum of five members. One member of the board shall be a member of the local governing body. There shall be an equal number of appointees by each member of the board of supervisors. Any county with more than five supervisors shall have at least the same number of members as the size of its board of supervisors. Nothing in this section shall be construed to limit the ability of the governing body to increase the number of members above 15. Local mental health boards may recommend appointees to the county supervisors. Counties are encouraged to appoint individuals who have experience and knowledge of the mental health system. The board membership should reflect the ethnic diversity of the client population in the county.

(1) Fifty percent of the board membership shall be consumers or the parents, spouses, siblings, or adult children of consumers, who are receiving or have received mental health services. At least 20 percent of the total membership shall be consumers, and at least 20 percent shall be families of consumers.

(2) In counties under 80,000 population, at least one member shall be a consumer, and at least one member shall be a parent, spouse, sibling, or adult child of a consumer, who is receiving or has received mental health services.

(b) The term of each member of the board shall be for three years. The governing body shall equitably stagger the appointments so that approximately one-third of the appointments expire in each year.

(c) If two or more local agencies jointly establish a community mental health service under Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the mental health board for the community mental health service shall consist of an additional two members for each additional agency, one of whom shall be a consumer or a parent, spouse, sibling, or adult child of a consumer who has received mental health services.

(d) No member of the board or his or her spouse shall be a full-time or part-time county employee of a county mental health service, an employee of the State Department of Mental Health, or an

employee of, or a paid member of the governing body of, a Bronzan-McCorquodale contract agency.

(e) Members of the board shall abstain from voting on any issue in which the member has a financial interest as defined in Section 87103 of the Government Code.

(f) If it is not possible to secure membership as specified from among persons who reside in the county, the governing body may substitute representatives of the public interest in mental health who are not full-time or part-time employees of the county mental health service, the State Department of Mental Health, or on the staff of, or a paid member of the governing body of, a Bronzan-McCorquodale contract agency.

(g) The mental health board may be established as an advisory board or a commission, depending on the preference of the county.

(Amended by Stats. 1993, Ch. 564, Sec. 2. Effective January 1, 1994.)

5604.1. Local mental health advisory boards shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

(Amended by Stats. 1992, Ch. 1374, Sec. 21. Effective October 28, 1992.)

5604.2. (a) The local mental health board shall do all of the following:

(1) Review and evaluate the community's mental health needs, services, facilities, and special problems.

(2) Review any county agreements entered into pursuant to Section 5650.

(3) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(4) Review and approve the procedures used to ensure citizen and professional involvement at all stages of the planning process.

(5) Submit an annual report to the governing body on the needs and performance of the county's mental health system.

(6) Review and make recommendations on applicants for the appointment of a local director of mental health services. The board shall be included in the selection process prior to the vote of the governing body.

(7) Review and comment on the county's performance outcome data and communicate its findings to the California Mental Health Planning Council.

(8) Nothing in this part shall be construed to limit the ability of the governing body to transfer additional duties or authority to a mental health board.

(b) It is the intent of the Legislature that, as part of its duties pursuant to subdivision (a), the board shall assess the impact of the realignment of services from the state to the county, on services delivered to clients and on the local community.

(Amended by Stats. 1993, Ch. 564, Sec. 3. Effective January 1, 1994.)

5604.3. The board of supervisors may pay from any available funds the actual and necessary expenses of the members of the mental health board of a community mental health service incurred incident to the performance of their official duties and functions. The expenses may include travel, lodging, child care, and meals for the members of an advisory board while on official business as approved by the director of the local mental health program.

(Amended by Stats. 1992, Ch. 1374, Sec. 23. Effective October 28, 1992.)

5604.5. The local mental health board shall develop bylaws to be approved by the governing body which shall:

(a) Establish the specific number of members on the mental health board, consistent with subdivision (a) of Section 5604.

(b) Ensure that the composition of the mental health board represents the demographics of the county as a whole, to the extent feasible.

(c) Establish that a quorum be one person more than one-half of the appointed members.

(d) Establish that the chairperson of the mental health board be in consultation with the local mental health director.

(e) Establish that there may be an executive committee of the mental health board.

(Amended by Stats. 1992, Ch. 1374, Sec. 24. Effective October 28, 1992.)

5607. The local mental health services shall be administered by a local director of mental health services to be appointed by the governing body. He shall meet such standards of training and experience as the State Department of Mental Health, by regulation, shall require. Applicants for such positions need not be residents of the city, county, or state, and may be employed on a full or part-time basis. If a county is unable to secure the services of a person who meets the standards of the State Department of Mental Health, the county may select an alternate administrator subject to the approval of the Director of Mental Health.

(Amended by Stats. 1977, Ch. 1252.)

5608. The local director of mental health services shall have the following powers and duties:

(a) Serve as chief executive officer of the community

mental health service responsible to the governing body through administrative channels designated by the governing body.

(b) Exercise general supervision over mental health services provided under this part.

(c) Recommend to the governing body, after consultation with the advisory board, the provision of services, establishment of facilities, contracting for services or facilities and other matters necessary or desirable in accomplishing the purposes of this division.

(d) Submit an annual report to the governing body reporting all activities of the program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) Carry on studies appropriate for the discharge of his or her duties, including the control and prevention of mental disorders.

(f) Possess authority to enter into negotiations for contracts or agreements for the purpose of providing mental health services in the county.

(Amended by Stats. 1991, Ch. 89, Sec. 92. Effective June 30, 1991.)

5610. (a) Each county mental health system shall comply with reporting requirements developed by the State Department of Mental Health which shall be uniform and simplified. The department shall review existing data requirements to eliminate unnecessary requirements and consolidate requirements which are necessary. These requirements shall provide comparability between counties in reports.

(b) The department shall develop, in consultation with the Performance Outcome Committee pursuant to Section 5611, and with the Health and Welfare Agency, uniform definitions and formats for a statewide, nonduplicative client-based information system that includes all information necessary to meet federal mental health grant requirements and state and federal medicaid reporting requirements, as well as any other state requirements established by law, or agreed upon by the department and the California Conference of Local Mental Health Directors. The data system, including performance outcome measures reported pursuant to Section 5613, shall be developed by July 1, 1992.

(c) Unless determined necessary by the department to comply with federal law and regulations, the data system developed pursuant to subdivision (b) shall not be more costly than that in place during the 1990-91 fiscal year.

(d) (1) The department shall develop unique client identifiers that permit development of client-specific cost and outcome measures and related research and analysis.

(2) The department's collection and use of client information, and the development and use of client identifiers, shall be consistent with clients' constitutional and statutory rights to

privacy and confidentiality.

(3) Client identifiers shall be encrypted by the department in such a manner that it shall not be possible, through either the identifiers or the information collected by the department through the use of identifiers, to determine or disclose the identity of clients.

(Amended by Stats. 1992, Ch. 1374, Sec. 29. Effective October 28, 1992.)

5611. (a) The Director of Mental Health shall establish a Performance Outcome Committee, to be comprised of representatives from the PL 99-660 Planning Council and the California Conference of Local Mental Health Directors. Any costs associated with the performance of the duties of the committee shall be absorbed within the resources of the participants.

(b) Major mental health professional organizations representing licensed clinicians may participate as members of the committee at their own expense.

(c) The committee may seek private funding for costs associated with the performance of its duties.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 96. Effective June 30, 1991.)

5612. (a) (1) The Performance Outcome Committee shall develop measures of performance for evaluating client outcomes and cost effectiveness of mental health services provided pursuant to this division. The reporting of performance measures shall utilize the data collected by the State Department of Mental Health in the client-specific, uniform, simplified, and consolidated data system. The performance measures shall take into account resources available overall, resource imbalance between counties, other services available in the community, and county experience in developing data and evaluative information.

(2) During the 1992-93 fiscal year, the committee shall include measures of performance for evaluating client outcomes and cost-effectiveness of mental health services provided by state hospitals.

(b) The committee should consider outcome measures in the following areas:

(1) Numbers of persons in identified target populations served.

(2) Estimated number of persons in identified target populations in need of services.

(3) Treatment plans development for members of the target population served.

(4) Treatment plan goals met.

(5) Stabilization of living arrangements.

(6) Reduction of law enforcement involvement and jail bookings.

(7) Increase in employment or education activities.

(8) Percentage of resources used to serve children and older adults.

(9) Number of patients' rights advocates and their duties.

(10) Quality assurance activities for services, including peer review and medication management.

(11) Identification of special projects, incentives, and prevention programs.

(c) Areas identified for consideration by the committee are for guidance only.

(Amended by Stats. 1992, Ch. 1374, Sec. 30. Effective October 28, 1992.)

5613. (a) Counties shall annually report data on performance measures established pursuant to Section 5612 to the local mental health advisory board and to the Director of Mental Health.

(b) The Director of Mental Health shall annually make available to the Legislature, no later than March 15, data on county performance.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 100. Effective June 30, 1991.)

5615. If they so elect, cities that were operating independent public mental health programs on January 1, 1990, shall continue to receive direct payments.

(Amended by Stats. 1991, Ch. 89, Sec. 102. Effective June 30, 1991.)

5616. Nothing in this part shall prevent any city or combination of cities from owning, financing, and operating a mental health program.

(Amended by Stats. 1991, Ch. 89, Sec. 104. Effective June 30, 1991.)

5622. (a) A licensed inpatient mental health facility operated by a county or pursuant to a county contract, shall, prior to the discharge of any patient who was placed in the facility, prepare a written aftercare plan. The aftercare plan shall specify the following:

(1) Assessment of present level of functioning, including capacity to provide for food, clothing, and shelter.

(2) Diagnoses, including treatment initiated, medications, and dosage schedules.

(3) Six-month and twelve-month prognosis.

(4) The specific programs and services required so the person can minimize future confinement and receive the treatment in the least restrictive setting, including:

(A) Treatment objectives and goals stated in terms which

allow for measurement of progress and the identification of the mental health personnel responsible for the implementation of the goals and objectives.

(B) Referral to providers of medical and mental health services.

(C) Identification of public social services, legal aid, educational, and vocational services.

(5) If the person is homeless, arrangements, if possible, for the voluntary placement of the person in a living environment suitable to his or her needs.

(b) Any person undergoing treatment at a facility under the Lanterman-Petris-Short Act or a county Bronzan-McCorquodale facility shall be entitled to obtain, upon request, a written aftercare plan.

(c) A copy of the aftercare plan shall be transmitted to the local director of mental health services in the county of the person's placement who shall adopt and implement the plan, with any modifications or changes which are necessary in light of available resources, or when in the opinion of the local director of mental health services, other or alternate treatment is appropriate. Any patient who is released from a community treatment facility or state hospital on a voluntary basis may refuse any or all services under the written aftercare plan.

(Amended by Stats. 1991, Ch. 89, Sec. 106. Effective June 30, 1991.)

5623.5. Commencing October 1, 1991, and to the extent resources are available, no county shall deny any person receiving services administered by the county mental health program access to any medication which has been prescribed by the treating physician and approved by the federal Food and Drug Administration and the Medi-Cal program for use in the treatment of psychiatric illness.

(Added by Stats. 1991, Ch. 89, Sec. 107. Effective June 30, 1991.)

CHAPTER 2. THE COUNTY PERFORMANCE CONTRACT

(Heading of Chapter 2 amended by Stats. 1991, Ch. 89, Sec. 109. Effective June 30, 1991.)

5650. (a) The board of supervisors of each county, or boards of supervisors of counties acting jointly, shall adopt, and submit to the Director of Mental Health in the form and according to the procedures specified by the director, a proposed annual county mental health services performance contract for mental health services in the county or counties.

(b) The State Department of Mental Health shall develop and

implement the requirements, format, procedure, and submission dates for the preparation and submission of the proposed performance contract.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 111. Effective June 30, 1991.)

5650.5. Any other provision of law referring to the county Short-Doyle plan shall be construed as referring to the county mental health services performance contract described in this chapter.

(Added by Stats. 1991, Ch. 89, Sec. 113. Effective June 30, 1991.)

5651. The proposed annual county mental health services performance contract shall include all of the following:

(a) The following assurances:

(1) That the county is in compliance with the expenditure requirements of Section 17608.05.

(2) That the county shall provide the mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code and will comply with all requirements of that chapter.

(3) That the county shall provide services to persons receiving involuntary treatment as required by Part 1 (commencing with Section 5000) and Part 1.5 (commencing with Section 5585).

(4) That the county shall comply with all requirements necessary for Medi-Cal reimbursement for mental health treatment services and case management programs provided to Medi-Cal eligible individuals, including, but not limited to, the provisions set forth in Chapter 3 (commencing with Section 5700), and that the county shall submit cost reports and other data to the department in the form and manner determined by the department.

(5) That the local mental health advisory board has reviewed and approved procedures ensuring citizen and professional involvement at all stages of the planning process pursuant to Section 5604.2.

(6) That the county shall comply with all provisions and requirements in law pertaining to patient rights.

(7) That the county shall comply with all requirements in federal law and regulation pertaining to federally funded mental health programs.

(8) That the county shall provide all data and information set forth in Sections 5610 and 5664.

(9) That the county, if it elects to provide the services described in Chapter 2.5 (commencing with Section 5670), shall comply with guidelines established for program initiatives outlined in that chapter.

(10) Assurances that the county shall comply with all

applicable laws and regulations for all services delivered.

(b) The county's proposed agreement with the department for state hospital usage as required by Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Performance contracts required by this chapter shall include any contractual requirements needed for any program initiatives utilized by the county contained within this part. In addition, any county may choose to include contract provisions for other state directed mental health managed programs within this performance contract.

(d) Other information determined to be necessary by the director, to the extent this requirement does not substantially increase county costs.

(Amended by Stats. 1991, Ch. 611, Sec. 45. Effective October 7, 1991.)

5651.2. For the 1991-92 fiscal year, each county shall, no later than October 1, 1991, submit to the department a simplified performance contract. The performance contract shall contain information that the department determines necessary for the provision and funding of mental health services provided for in law. The performance contract shall include, but not be limited to, assurances necessary to ensure compliance with federal law. In addition, the performance contract may include provisions governing reimbursement to the state for costs associated with state hospitals and institutions for mental disease.

(Amended by Stats. 1991, Ch. 611, Sec. 46. Effective October 7, 1991.)

5652.5. (a) Each county shall utilize available private and private nonprofit mental health resources and facilities in the county prior to developing new county-operated resources or facilities when these private and private nonprofit mental health resources or facilities are of at least equal quality and cost as county-operated resources and facilities and shall utilize available county resources and facilities of at least equal quality and cost prior to new private and private nonprofit resources and facilities. All the available local public or private and private nonprofit facilities shall be utilized before state hospitals are used.

(b) Nothing in this section shall prevent a county from restructuring its systems of care in the manner it believes will provide the best overall care.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 125. Effective June 30, 1991. Note: Amendment by Stats. 1991, Ch. 241, was void because it applied to the Section 5652.5 already repealed by Sec. 124 of Ch. 89; Stats. 1992, Ch. 4, repealed the Ch. 241 version for clarification.)

5652.7. A county shall have only 60 days from the date of submission of an application to review and certify or deny an application to establish a new mental health care provider. If an application requires review by the State Department of Health Services, the department shall also have only 60 days from the date of submission of the application to review and certify or deny an application to establish a new mental health care provider.

(Added by Stats. 1987, Ch. 884, Sec. 3.)

5653. In developing the county Short-Doyle plan, optimum use shall be made of appropriate local public and private organizations, community professional personnel, and state agencies. Optimum use shall also be made of federal, state, county, and private funds which may be available for mental health planning.

In order that maximum utilization be made of federal and other funds made available to the Department of Rehabilitation, the Department of Rehabilitation may serve as a contractual provider under the provisions of a county Short-Doyle plan of vocational rehabilitation services for the mentally disordered.

(Amended by Stats. 1984, Ch. 1327, Sec. 30. Effective September 25, 1984.)

5653.1. In conducting evaluation, planning, and research activities to develop and implement the county Short-Doyle plan, counties may contract with public or private agencies.

(Added by Stats. 1971, Ch. 1801.)

5654. In order to serve the increasing needs of children and adolescents with mental and emotional problems, county mental health programs may use funds allocated under the Short-Doyle Act for the purposes of consultation and training.

(Added by Stats. 1986, Ch. 770, Sec. 2.)

5655. All departments of state government and all local public agencies shall cooperate with county officials to assist them in mental health planning. The State Department of Mental Health shall, upon request and with available staff, provide consultation services to the local mental health directors, local governing bodies, and local mental health advisory boards.

If the Director of Mental Health considers any county to be failing, in a substantial manner, to comply with any provision of this code or any regulation, or with the approved county Short-Doyle plan, the director shall order the county to appear at a hearing, before the director or the director's designee, to show cause why the department should not take action as set forth in this section. The county shall be given at least 20 days' notice of such hearing. The director shall consider the case on the record established at the hearing and make final findings and decision.

If the director determines that there is or has been a failure, in a substantial manner, on the part of the county to comply with any provision of this code or any regulations or the approved county Short-Doyle plan, and that administrative sanctions are necessary, the department may invoke any, or any combination of, the following sanctions:

(a) Withhold part or all of state mental health funds from such county.

(b) Require the county to enter into negotiations for the purpose of assuring county Short-Doyle plan compliance with such laws and regulations.

(c) Bring an action in mandamus or such other action in court as may be appropriate to compel compliance. Any such action shall be entitled to a preference in setting a date for a hearing.

(Amended by Stats. 1979, Ch. 429.)

5657. (a) The private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part shall provide an invoice to the county for the amount of the payment due within 60 days of the date the services are supplied, as long as that date is at least 60 days from the date the county has received distribution of mental health funds from the state.

(b) Any county which, without reasonable cause, fails to make any payment within 60 days of the required payment date to a private organization or private nonprofit organization awarded a contract with the county agency to supply mental health services under this part, for an indisputed claim which was properly executed by the claimant and submitted to the county, shall pay a penalty of 0.10 percent of the amount due, per day, from the 61st day after the required payment date.

(c) For the purposes of this section, "required payment date" means any of the following:

(1) The date on which payment is due under the terms of the contract.

(2) If a specific date is not established by contract, the date upon which an invoice is received, if the invoice specifies payment is due upon receipt.

(3) If a specific date is not established by contract or invoice, 60 days after receipt of a proper invoice for the amount of the payment due.

(d) The penalty assessed under this section shall not be paid from the Bronzan-McCorquodale program funds or county matching funds. The penalty provisions of this section shall not apply to the late payment of any federal funds or Medi-Cal funds.

(Amended by Stats. 1991, Ch. 89, Sec. 127. Effective June 30, 1991.)

5664. (a) County mental health systems shall provide reports and data to meet the information needs of the state.

(b) The department shall not implement this section in a manner requiring a higher level of service for state reporting needs than that which it was authorized to require prior to July 1, 1991.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 129. Effective June 30, 1991.)

5664.5. (a) County mental health systems shall continue to provide data required by the State Department of Mental Health to establish uniform definitions and time increments for reporting type and cost of services received by local mental health program clients.

(b) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it is repealed; or until the date upon which the director informs the Legislature that the new data system is established pursuant to Section 5610, whichever is later, unless the provisions of the section are required by the federal government as a condition of funding for the Short-Doyle Medi-Cal program.

(Added by Stats. 1991, Ch. 89, Sec. 130. Effective June 30, 1991. Conditionally repealed on January 1, 1994, or later, by its own provisions.)

5665. After the development of performance outcome measures pursuant to Section 5610, whenever a county makes a substantial change in its allocation of mental health funds among services, facilities, programs, and providers, it shall, at a regularly scheduled public hearing of the board of supervisors, document that it based its decision on the most cost-effective use of available resources to maximize overall client outcomes, and provide this documentation to the department.

(Added by Stats. 1991, Ch. 89, Sec. 131. Effective June 30, 1991.)

5666. (a) The Director of Mental Health shall review each proposed county mental health services performance contract to determine that it complies with the requirements of this division.

(b) The director shall require modifications in the proposed county mental health services performance contract which he or she deems necessary to bring the proposed contract into conformance with the requirements of this division.

(c) Upon approval by both parties, the provisions of the performance contract required by Section 5651 shall be deemed to be a contractual arrangement between the state and county.

(Added by Stats. 1991, Ch. 89, Sec. 132. Effective June 30, 1991.)

5667. (a) A community mental health center shall be considered to be a licensed facility for all purposes, including all provisions of the Health and Safety Code and the Insurance Code.

(b) For purposes of this section, "community mental health center" means any entity that is one of the following:

(1) A city or county mental health program.

(2) A facility funded under the federal Community Mental Health Centers Act, contained in Subchapter 3 (commencing with Section 2681) of Chapter 33 of Title 42 of the United States Code.

(3) A nonprofit agency that has been certified to provide services under this part that provides both of the following:

(A) A comprehensive program of mental health services in an outpatient setting designed to improve the function of persons with diagnosed mental health problems pursuant to procedures governing all aspects of the program formulated with the aid of multidisciplinary staff, including physicians and surgeons, all of whom serve on quality assurance and utilization review committees.

(B) Diagnostic and therapeutic services for individuals with diagnosed mental health problems, together with related counseling.

(Added by Stats. 1993, Ch. 788, Sec. 5. Effective October 4, 1993.)

CHAPTER 2.5. PROGRAM INITIATIVES

(Chapter 2.5 repealed (comm. with Section 5675) and added by Stats. 1991, Ch. 89, Sec. 134. Effective June 30, 1991.)

Article 1. Community Residential Treatment System

(Article 1 added by Stats. 1991, Ch. 89, Sec. 134. Effective June 30, 1991.)

5670. (a) It is the intent of the Legislature to encourage the development of a system of residential treatment programs in every county which provides a range of alternatives to institutional care based on principles of residential, community-based treatment.

(b) It is further the intent of the Legislature that community residential mental health programs in the State of California be developed in accordance with the guidelines and principles set forth in this chapter. To this end, counties may implement the community residential treatment system described in this chapter either with available county allocations, or as new moneys

become available.

(Added by Stats. 1991, Ch. 89, Sec. 134. Effective June 30, 1991.)

5670.5. Criteria for community residential treatment system programs are as follows:

(a) Facilities:

(1) Settings, whether residential or day, should be as close to a normal home environment as possible without sacrificing client safety or care.

(2) Residential treatment centers should be relatively small, preferably 15 beds or less, but in any case with the appearance of a noninstitutional setting.

(3) The individual elements of the system should, where possible, be in separate facilities, and not part of one large facility attempting to serve an entire range of clients.

(b) Staffing patterns:

(1) Staffing patterns should reflect, to the maximum extent feasible, at all levels, the cultural, linguistic, ethnic, sexual and other social characteristics of the community the facility serves.

(2) The programs should be designed to use appropriate multidisciplinary professional consultation and staff to meet the specific diagnostic and treatment needs of the clients.

(3) The programs should use paraprofessionals and persons who have been consumers of mental health services where appropriate.

(c) Programs:

(1) The programs should, to the maximum extent feasible, be designed so as to reduce the dependence on medications as a sole treatment tool. Programs in which prescriptions for medication are a component of the program should be subject to the medications-monitoring.

(2) The programs should have a rehabilitation focus which encourages the client to develop the skills to become self-sufficient and capable of increasing levels of independent functioning. Where appropriate, they should include prevocational and vocational programs.

(3) The program should encourage the participation of the clients in the daily operation of the setting in development of treatment and rehabilitation planning and evaluation.

(4) Participation in any element of the system should not preclude the involvement of clients in individual therapy. Individual therapists of clients should, where possible, be directly involved in the development and implementation of a treatment plan, including medication and day program decisions.

(d) Coordination:

The programs should demonstrate specific linkages with one another, and with the general treatment and social service system, as a whole. These connections should not be limited to the mental health

system, but should include, whenever possible, community resources utilized by the general population.

(Added by Stats. 1991, Ch. 89, Sec. 134. Effective June 30, 1991.)

5671. The following should be the programs in the community residential treatment system. These programs should be designed to provide, at every level, alternatives to institutional settings.

(a) A program for a short-term crisis residential alternative to hospitalization for individuals experiencing an acute episode or crisis requiring temporary removal from their home environment. The program should be available for admissions 24 hours a day, seven days a week. The primary focus of this program should be on reduction of the crisis, on stabilization, and on a diagnostic assessment of the person's existing support system, including recommendations for referrals upon discharge.

The services in the program should include, but not be limited to, provision for direct family work, connections to prevocational and vocational programs, and development of a support system, including income and treatment referrals. This program should be designed for persons who would otherwise be referred to an inpatient unit, either locally or in the state hospital. This program should place an emphasis on stabilization and appropriate referral for further treatment or support services, or both.

(b) A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This program should be designed to provide a rehabilitation program for the so-called "chronic" patient who needs long-term support in order to develop independent living skills. The clients in this program should be those who would otherwise be living marginally in the community with little or no service support, and who would return many times to the hospital for treatment. It should also serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program should go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program should include, but not be limited to, intensive diagnostic work, including learning disability assessment, full day treatment program with an active prevocational and vocational component, special education services, outreach to develop linkages with the general social service system, and counseling to aid clients in developing the skills to move toward a less structured setting.

(c) A transitional residential program designed for persons who are able to take part in programs in the general community, but who, without the support of counseling, as well as the therapeutic

community, would be at risk of returning to the hospital. This program may employ a variety of staffing patterns and should be for persons who may be expected to move toward a more independent living setting within approximately three months to one year. The clients should be expected to play a major role in the functioning of the household, and shall be encouraged to accept increasing levels of responsibility, both in the residential community, and in the community as a whole. Residents should be required to be involved in daytime activities outside of the house which are relevant to their personal goals and conducive to their achieving more self-sufficiency.

The services in this program should include, but are not limited to, counseling and ongoing assessment, development of support systems in the community, a day program which encourages interaction between clients and the community-at-large, and an activity program that encourages socialization and utilization of general community resources.

(d) A program for semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system programs, but who, without some support and structure, are at risk to return to a condition requiring hospitalization. The individual apartments or houses should be shared by three to five persons. These small cooperative housing units should function as independent households with direct linkages to staff support in case of emergencies, as well as for regular assessment and evaluation meetings. Individuals may use satellite housing as a transition to independent living, or may remain in this setting indefinitely in order to avoid the need for more intensive settings.

This program should be for persons who only need minimum support in order to live in the community. These individuals may require rent subsidy, as well as the backup of another system, in order to remain in this setting. The satellite units should be as normative as the general living arrangements in the communities in which they are developed.

(e) A program to provide emergency housing or respite care services, or both. These services should be designed for persons with a mental disability in need of temporary housing, but who do not require hospitalization or the more intensive support and treatment of the crisis residential program. Services provided should include, but not be limited to, advocacy, counseling, and linkages to community mental health and other human services, including referrals to vocational and housing opportunities.

(f) A day rehabilitation program which should be designed to provide structured education, training, and support services to promote the development of independent living skills and community support. Services provided should include, but not be limited to, peer support, education services, prevocational and employment services, recreational and social activities, service brokerage and

advocacy, orientation to community resources, training in independent living skills, health education including medication education, individual and group counseling, education and counseling services for family members, and crisis intervention.

(g) The program for socialization centers should be designed to serve a broad range of clients, including those in the system programs, when appropriate, as well as persons living in the community in general. This program should be designed to provide regular daytime, evening, and weekend activities for persons who require long-term, structured support, but who do not receive such services in their living setting. Although the socialization center is meant to provide a maintenance support program for those individuals who only wish or require regular socialization opportunities, the programs should also provide the opportunity to develop the skills to move toward more independent functioning.

The services in this program should include, but not be limited to, outings, recreational activities, cultural events, linkages to community resources, as well as prevocational counseling, life skills training, and other rehabilitation efforts. This program should be for persons who would lose contact with a social or treatment system, or both, if left to their isolated living situation, or their ability to participate in activities for the "general public." With this level of support, persons would be able to lead full and active lives, with the opportunity to develop the skills to move toward independent living. Also included in the program should be adult education support programs which utilize community college and other adult education agencies. These services would provide opportunities to individuals throughout the community residential treatment system and in other living settings, including independent living, to develop skills necessary for independent living through the utilization of resources available to the general population.

(h) An in-home treatment program designed as an alternative to out-of-home placement for individuals who are otherwise not appropriate for, or do not choose to participate in, other elements of the community residential treatment system. This program should be designed for those individuals who would benefit most from a treatment intervention in their home environment. It is a basic premise of this element that treatment should focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the program should be to reintegrate the individual with the family unit, when appropriate, and with the greater community without removing the person from his or her home environment.

The service may be designed as a crisis intervention for persons experiencing an acute episode or an ongoing independent living service, or both, for persons wishing to obtain or maintain housing and services in the community. Services provided should include, but

not be limited to, crisis intervention, family work, when appropriate, development of a specific treatment plan, development of an ongoing rehabilitation plan utilizing available resources in the community, and coordination with such services as case management, vocational rehabilitation, schools and other education services, and various special programs which would act as a support system for the individual.

(i) A volunteer-based companion program designed to encourage the development of personal relationships with residents of community care facilities with the goal of motivating and assisting residents to make a successful transition to independent living, or to programs of the community residential treatment system.

The service should be provided primarily by volunteers, including students as a part of a college or university curriculum, who are supervised and coordinated by trained and experienced personnel. Services provided should include, but not be limited to, recreation, one-to-one companionship, advocacy, and assistance in developing the knowledge and use of community resources, including housing and vocational services, and follow up for persons who make the transition to independent living.

(Added by Stats. 1991, Ch. 89, Sec. 134. Effective June 30, 1991.)

5671.5. It is the intent of the Legislature that programs serving children and adolescents should be established under this chapter. Such programs should follow the guidelines and principles set forth in this chapter and in addition should meet the following criteria unique to the population to be served:

(a) The programs should, to the maximum extent feasible, be designed so as to reduce the disruption and promote the reintegration of the family unit of which the child is a part.

(b) The programs should have an education focus and should demonstrate specific linkage with community education resources.

(c) The programs should contain a specific followup component.

(Added by Stats. 1991, Ch. 89, Sec. 134. Effective June 30, 1991.)

5672. The types of programs serving children and adolescents referred to in Section 5671.5 are those described in this section. The programs should meet the criteria set forth in this section and in Sections 5671 and 5671.5. Nothing in this section should be construed to waive any licensure requirement pursuant to the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code) for any community care facility.

(a) A program for a short-term crisis residential alternative to hospitalization. The services in this program should

include, but not be limited to, provision of direct services to the family, specific linkages with the child's educational system and community educational resources, and development of a support system, including school and treatment referrals. The program should be designed for children and adolescents who would otherwise be referred to a psychiatric inpatient unit. It should be a 24-hour program, with an emphasis on stabilization and appropriate referral for further treatment or support services.

(b) A long-term residential treatment program. This program should have an educational orientation and should reflect the principle that education be available in the least restrictive environment. The program should serve children and adolescents requiring an intensive support system for a period of six to 18 months, who would otherwise be at risk of periodic hospitalization. The program should provide coordinated intervention with the child, family unit, and community education resources, and should include aftercare services to the child and family unit to solidify gains and develop skills in linking with community services.

(c) A transitional residential program. This program may include group homes, foster homes, or homes adapted for preparing adolescents approaching majority to adjust to emancipation.

The services in this program should include, but not be limited to, coordination with community education resources to meet the child's individual need, family services designed to strengthen the family unity of which the child is a part, and aftercare services to reinforce the gains brought about by the program and assist in community adjustment.

(d) A program for a semisupervised, independent but structured living arrangement. This program should apply to older adolescents, who are either emancipated or who would not be returning home from out-of-home placement. The semisupervised living arrangement should require structured living designed to impart those skills necessary for successful independent living as described in subdivision (d) of Section 5671. Adult supervision should be available 24 hours per day.

The services should include, but not be limited to, prevocational and vocational linkages in the community, financial planning which may include rent subsidy assistance, and development of a social support system.

(e) (1) A day treatment program. This program should provide services to children and adolescents who are residing in their own homes or in out-of-home placements. Schoolsites or other noninstitutional settings are preferred for this program. A day treatment program for children should offer a multidisciplinary approach and should incorporate education, recreation, and rehabilitation activities. Services provided should be age appropriate and age specific intensive remedial programs, including education, counseling, socialization, and recreational services. To

the extent feasible, the client's family should be included in these activities.

(2) Day treatment services should be designed to provide an alternative to residential placement, to provide preventive services in the early stages of family breakdown, and to reduce the need for more costly and lengthy treatment services. Aftercare services should be available to maintain gains and prevent family regression.

(f) A socialization center program. This program should provide a multidisciplinary approach and seek funding from a variety of agencies responsible for providing services, including, but not limited to, school districts and recreation departments. The services should promote community acceptance of clients and the integration of their family units. Family involvement in planning activities and developing support system linkages should be encouraged.

(g) An in-home treatment program. This program should be designed to strengthen the child's ties with the family unit and with the greater community without removing the child from his or her home environment and community educational system.

Services provided should include, but not be limited to, crisis intervention, direct family services, development of specific treatment plans, development of ongoing plans utilizing available resources in the community educational system, and special programs which act as a support system for the child and family unit.

(h) Augmentation of crisis intervention program. This program should provide specifically for evaluation, diagnosis, and disposition planning for children and adolescents in psychiatric crisis.

(i) Case management services program. This program should emphasize prevention services and should be designed to divert to noninstitutional programs children and adolescents at risk of involvement with traditional mental health institutions.

(Amended by Stats. 1991, Ch. 611, Sec. 47. Effective October 7, 1991.)

5673. (a) A five-year pilot program is hereby authorized in Napa County and Riverside County to establish a 15-bed locked facility in each county, for the provision of community care and treatment for mentally disordered persons who are placed in a state hospital or another health facility because no community placements are available to meet the needs of these patients. It is the intent of the Legislature to carefully evaluate this specific approach to determine its potential for replication in other limited jurisdictions. Participation in this pilot program by the two counties shall be on a voluntary basis. The pilot program shall be implemented notwithstanding the following licensure requirements enforced by the State Department of Social Services:

(1) Subdivision (a) of Section 1502 of the Health and Safety Code, which defines a community care facility as providing

nonmedical care.

(2) Subdivision (a) of Section 1505 of the Health and Safety Code, which exempts any health facility, as defined by Section 1250 of the Health and Safety Code, from licensure under the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code).

(3) Section 1507 of the Health and Safety Code, which limits the provision of medical services in community care facilities to incidental medical services.

(4) Paragraph (5) of subdivision (a) of Section 80001 of Title 22 of the California Code of Regulations, which states that an adult residential facility provides nonmedical care.

(5) Paragraph (7) of subdivision (a) of Section 80072 of Title 22 of the California Code of Regulations, which relates to a client's right not to be locked in any room, building, or facility premises. However, for purposes of this section, a client shall not be locked in any room.

(b) Clients provided care within these pilot facilities shall be conservatees as defined by Section 5350 who, prior to the establishment of this program, either received care at a state hospital or were placed in facilities for the mentally disordered.

(c) Standards for services provided shall be developed by each county mental health director, in consultation with, and approved by, the State Department of Mental Health and monitored regularly by the department for compliance with these standards. These services shall be on a 24-hour basis in a therapeutic homelike environment. The services shall cover the full range of the social rehabilitation model concept, including, but not limited to, the following:

(1) Counseling.

(2) Day treatment.

(3) Crisis intervention.

(4) Vocational training.

(5) Medication evaluation and management by a licensed physician and other licensed professional and paraprofessional staff who possess a valid license or certificate to perform this function.

(d) Administration of medication and monitoring of medication shall occur notwithstanding statutory and regulatory licensure requirements for community care facilities to the contrary. Standards for use of medications shall be developed and monitored by the State Department of Mental Health.

(e) The facilities shall be licensed and monitored by the State Department of Social Services and shall comply with all licensing requirements except those specifically exempted by this section. In addition, no less than 75 square feet of outdoor space per client shall be made available for client use. The State Department of Social Services shall conduct inspections of the facilities pursuant to Section 1533 of the Health and Safety Code and shall be given immediate access to the facilities.

(f) In staffing the pilot program, each county board of supervisors shall give full consideration to each potential means of implementation, including, but not limited to, the clinical, programmatic, and economic benefits and advantages of each alternative. The pilot program shall meet all of the staffing criteria of subdivision (b) of Section 5670.5. The staff shall use and document the actions of a multidisciplinary professional consultation staff to meet the specific diagnostic and treatment needs of clients. The staff shall include, but need not be limited to, a licensed psychiatrist, a psychologist, a social worker, and a psychiatric technician, or a licensed vocational nurse. One or more of the following licensed professionals shall be present at the facility at all times:

(1) A psychiatrist or psychologist.

(2) A registered psychiatric nurse.

(3) A psychiatric technician.

(g) The State Department of Mental Health shall certify the program content in each county and monitor the program's functions on a regular basis and the State Department of Social Services shall regularly evaluate the facilities in accord with its statutory and regulatory licensure functions, pursuant to subdivisions (d) and (e).

(h) (1) The county mental health directors, the State Department of Mental Health, and the State Department of Social Services shall jointly report to the Legislature within five years of the commencement of operation of the facilities authorized pursuant to this section regarding the progress and cost-effectiveness demonstrated by the pilot program. The reports shall evaluate whether the pilot program is effective based on clinical indicators, and is successful in preventing future placement of its clients in state hospitals or other long-term health facilities, and shall report whether the cost of care in the pilot facilities is less than the cost of care in state hospitals or in other long-term health facility options. The evaluation reports shall include, but not be limited to, an evaluation of the selected method of project staffing, and an analysis of the effectiveness of the pilot program at meeting all of the following objectives:

(A) That the clients placed in the facilities show improved global assessment scores, as measured by preadmission and postadmission tests.

(B) That the clients placed in the facilities demonstrate improved functional behavior as measured by preadmission and postadmission tests.

(C) That the clients placed in the facilities have reduced medication levels as measured by preadmission and postadmission tests.

(2) The reports shall also include information on community reaction concerning locating this type of facility in the general community, any major problems created by the concept of this type of facility, the appropriate type of client to be placed in this type of

facility, and the appropriate licensing agency and category of licensure for facilities of this nature.

(i) The pilot program shall be deemed successful if it demonstrates both of the following:

(1) That costs of the program are no greater than public expenditures for providing alternative services to the clients served by the program.

(2) That the benefit to the clients, as described in subdivision (h), is improved by the program.

(j) Commencement of the pilot program in each county pursuant to this section shall be contingent upon the county and the department identifying funds for this purpose, as described in a financial plan that is approved in advance by the Department of Finance.

(Amended by Stats. 1994, Ch. 462, Sec. 2. Effective January 1, 1995.)

5675. (a) Subject to Section 5768, Placer County and up to six other counties may establish a pilot project for up to four years, to develop a shared mental health rehabilitation center for the provision of community care and treatment for persons with mental disorders who are placed in a state hospital or another health facility because no community placements are available to meet the needs of these patients. Participation in this pilot project by the counties shall be on a voluntary basis.

(b) (1) The department shall establish, by emergency regulation, the standards for the pilot project, and monitor the compliance of the counties with those standards. Placer County, in consultation with the department, shall be responsible for program monitoring.

(2) The department, in conjunction with the county mental health directors, shall report to the Legislature within three years of the commencement of operation of the facilities authorized pursuant to this section regarding the progress and cost-effectiveness demonstrated by the pilot project. The report shall evaluate whether the pilot project is effective based on clinical indicators, and is successful in preventing future placement of its clients in state hospitals or other long-term health facilities, and shall report whether the cost of care in the pilot facilities is less than the cost of care in state hospitals or in other long-term health facility options. The evaluation report shall include, but not be limited to, an evaluation of the selected method and the effectiveness of the pilot project staffing, and an analysis of the effectiveness of the pilot project at meeting all of the following objectives:

(A) That the clients placed in the facilities show improved global assessment scores, as measured by preadmission and postadmission tests.

(B) That the clients placed in the facilities demonstrate

improved functional behavior as measured by preadmission and postadmission tests.

(C) That the clients placed in the facilities have reduced medication levels as determined by comparison of preadmission and postadmission records.

(3) The pilot project shall be deemed successful if it demonstrates both of the following:

(A) The costs of the program are no greater than public expenditures for providing alternative services to the clients served by the project.

(B) That the benefit to the clients, as described in this subdivision, is improved by the project.

(c) The project shall be subject to existing regulations of the State Department of Health Services applicable to health facilities that the State Department of Mental Health deems necessary for fire and life safety of persons with mental illness.

(d) The department shall consider projects proposed by other counties under Section 5768.

(e) (1) Clients served by the project shall have all of the protections and rights guaranteed to mental health patients pursuant to the following provisions of law:

(A) Part 1 (commencing with Section 5000) and this part.

(B) Article 5 (commencing with Section 835), Article 5.5 (commencing with Section 850), and Article 6 (commencing with Section 860) of Chapter 4 of Title 9 of the California Code of Regulations.

(2) Clients shall have access to the services of a county patients' rights advocates as provided in Chapter 6.2 (commencing with Section 5500) of Part 1.

(f) This section shall remain in effect only until January 1, 1999, and as of that date is repealed unless a later enacted statute, which is enacted before January 1, 1999, deletes or extends that date.

(Added by Stats. 1994, Ch. 678, Sec. 1. Effective January 1, 1995. Repealed as of January 1, 1999, by its own provisions.)

Article 2. Community Support System for Homeless Mentally Disabled Persons

(Article 2 repealed [as affected by Stats. 1991, Ch. 89] and added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991. Note: This article was redesignated from Chapter 2.6 by Stats. 1991, Ch. 89, Sec. 143.)

5680. In order to assist homeless mentally disabled persons to secure, stabilize, and maintain safe and adequate living arrangements in the community, the Legislature hereby establishes the Community Support System for Homeless Mentally Disabled.

(Added by Stats. 1991, Ch. 611, Sec. 49. Effective October

7, 1991.)

5681. (a) It is the intent of the Legislature that when funds are made available, counties should assure the delivery of long-range services and community support assistance to homeless mentally disabled persons and those at risk of becoming homeless.

(b) It is further the intent of the Legislature that specific outreach and service priority be given under this chapter to homeless mentally disabled persons not served by any local or state programs as of September 30, 1985.

(Repealed and added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5682. The goal of the community support system is to assure that needed community services are provided to homeless mentally disabled persons and those at risk of becoming homeless to stabilize, maintain, and enhance their living in the community. All services of the community support system are offered to these persons on a voluntary basis. The active participation of the clients being provided services is encouraged at all times. Programs are designed to be accessible to the clients intended to be served. No individual service offered should be contingent upon the acceptance of any other community support service or mental health treatment.

(Repealed and added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5683. The function of the community support system is to conduct active outreach to homeless mentally disabled persons, to secure and maintain income, housing, food, and clothing for clients, and to develop social skills and prevocational and vocational skills on a voluntary basis. Each community support system is based upon the range of services as may be necessary to meet a client's needs:

(a) Personal assistance to secure and maintain housing, food, clothing, income, and health benefits.

(b) Accessing social and vocational skill development activities when they are available, case management, and crisis intervention, with a focus on finding alternatives to acute inpatient hospital care, services when they are needed.

(Repealed and added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5683.5. Community support systems may provide temporary funds to their homeless clients for their personal incidental living needs while the clients are in residential placement. Up to seventy-five dollars ($75) may be made available monthly to each client for this purpose. Local mental health programs shall, to the extent possible, recoup payments from clients after they become eligible for a governmental assistance program, including, but not limited to, general relief or SSI/SSP funds or otherwise become

financially able to repay the county community support system.

(Added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5685. Counties may provide specific services, contract with a public or private agency, or a combination of both. Nothing contained in this article shall prevent a county from developing a consortium model which involves a number of providers performing specific functions. If a county decides to contract out a portion or all of the community support program functions, priority shall be given to providers, public or private, that have demonstrated an ability and desire to the county to work with the population intended to be served and which possess the management skills needed to perform the functions they propose to perform.

(Added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5685.5. (a) A county may contract with the local office of the public guardian to receive and manage income and benefits for mentally ill persons, regardless of whether the persons are under conservatorship. The case management services described in this section shall be provided only with the consent of the client. The public guardian, under the contracts, may perform functions intended to meet the goals of the community support system listed in Section 5683, and may also include, but not be limited to, all of the following case management services:

(1) Outreach and casefinding to locate mentally ill persons in need of services.

(2) Establishing liaison with charitable organizations which serve mentally ill persons.

(3) Assistance in applying for and obtaining public assistance benefits for which they are eligible.

(b) Any office of the public guardian contracting with the county to provide these management services shall maintain a record of those individuals being assisted, including information about whether the individual is under conservatorship, the type of service assistance provided by the office of the public guardian, and any agencies with which the office of the public guardian is coordinating efforts.

(Added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5686. Whenever a county believes that a mentally disabled person may be unable to manage his or her SSI/SSP funds, the county mental health program shall advise the person that he or she may have a trusted family member, relative or friend designated as their representative payee under the SSI/SSP program.

(Repealed and added by Stats. 1991, Ch. 611, Sec. 49.

Effective October 7, 1991.)

5686.5. In order to make the most efficient use of the public funds appropriated for this purpose, counties are encouraged to maximize the use of existing public and private community resources. If voluntarily requested by the client, the community support agency shall help the client learn to manage his or her own money. Any SSI/SSP money, or other personal funds, if managed by the program or by the local office of the public guardian, shall, at all times, be considered as the client's money. Nothing in this section, however, shall prevent a client from purchasing residential care with SSI/SSP funds.

(Added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

5688.6. Any and all funds appropriated for the homeless mentally disabled which have been determined to be unexpended and unencumbered two years after the date the funds were appropriated shall be transferred to the Department of Housing and Community Development. The amount of transfer shall be determined after the State Department of Mental Health settles county cost reports for the fiscal year the funds were appropriated. The funds transferred to the Department of Housing and Community Development shall be administered in accordance with that department's Special Users Housing Rehabilitation or Emergency Shelter programs to provide low-income transitional and long-term housing for homeless mentally disabled persons. Special priority shall be given to project proposals for homeless mentally disabled persons in the same county from which the funds for the support of the community support system were originally allocated.

(Repealed and added by Stats. 1991, Ch. 611, Sec. 49. Effective October 7, 1991.)

Article 3. Community Vocational Rehabilitation System

(Heading of Article 3 amended, and redesignated from Chapter 2.7, by Stats. 1991, Ch. 89, Sec. 156. Effective June 30, 1991.)

5690. It is the intent of the Legislature to, encourage the establishment in each county of a system of community vocational rehabilitation and employment services, for persons with serious psychiatric disabilities. It is further the intent of the Legislature that there be a range of available services whenever possible in each county based on the principle that work is an essential element in the local mental health treatment and support system.

(Amended by Stats. 1991, Ch. 89, Sec. 157. Effective June

30, 1991.)

5691. (a) Counties may implement the community vocational rehabilitation system described in this chapter with existing county allocations, funds available from the Department of Rehabilitation and other state and federal agencies.

(b) It is the intent of the Legislature that on an annual basis five hundred thousand dollars ($500,000), or 17 percent, whichever is less, of the total federal funds available to the State of California pursuant to Section 611 of the Stewart B. McKinney Homeless Assistance Act, Public Law 100-77 (42 U.S.C. Sec. 290aa) shall be used to fund services pursuant to this chapter for homeless mentally disabled persons and those at risk of becoming homeless who have been identified pursuant to Chapter 2.6 (commencing with Section 5680).

Counties may not use these funds to provide services, including, but not limited to, vocational services, which could be funded by the Department of Rehabilitation.

(Amended by Stats. 1991, Ch. 89, Sec. 158. Effective June 30, 1991.)

5692. The State Department of Mental Health shall, to the extent resources are available, have responsibility for the provision of technical assistance, maximizing federal revenue, and ensuring coordination with other state agencies including implementing and coordinating interagency agreements between the Department of Rehabilitation and the State Department of Mental Health.

(Added by Stats. 1991, Ch. 89, Sec. 160. Effective June 30, 1991.)

5692.5. Programs that constitute the community vocational rehabilitation system are of the following types:

(a) Prevocational programs should be, but are not limited to, components of day treatment programs, socialization and activity centers, board-and-care facilities, and skilled nursing-special treatment programs. Prevocational programs may use individual and group counseling, educational groups, volunteer service programs, and other modalities to emphasize to individuals the value of work and their right to employment.

(b) Vocational programs providing linkage and coordination for the system and which provide the following:

(1) Information, outreach, and referral services which provide ongoing liaison with assessment prevocational programs.

(2) Intake and evaluation services which may use vocational testing and analysis of work history to identify vocational strengths, weaknesses, and needs. The assessment findings should be used by the client and the program to negotiate the goals and objectives of an individual vocational plan.

(3) Work experience programs which consist of time-limited work opportunities that enable participants to develop work skills and establish a work history. These programs may include, but not be limited to, agency-operated businesses, work placements in the community, or other activities that provide a realistic work environment.

(4) Individual and group counseling services which are separated from the work experience component; individual counseling to assist clients in resolving problems related to the work situation, to update and renegotiate the individual vocational plan, and to assist clients with nonwork-related problems that affect their participation in the program; group counseling to address Social Security Administration rules and regulations: the effects of medication on work performance, the relationship between work and mental health, attributes and attitudes necessary for successful employment, job-seeking skills, and other related topics.

(5) Job development, placement, and referral services which assist clients in the following areas: obtaining competitive employment; admission to job training or education programs; referral to the Department of Rehabilitation; agency operated competitive employment programs; governmental and private sector affirmative action hiring programs for the disabled; or other specialized employment programs. If employment, training, or education programs are not suitable for a client, the client should be actively referred back to a prevocational program or other mental health program that best meets his or her current needs.

(6) Support services which may include peer support groups and job clubs to assist clients in obtaining and maintaining employment; ongoing client counseling and placement followup; employer training, consultation, and placement followup services; and consultation services to prevocational programs.

(7) The preferred method to deliver the vocational rehabilitation services described in this section is supported employment.

(Added by renumbering Section 5693 by Stats. 1991, Ch. 89, Sec. 161. Effective June 30, 1991.)

5693. The following principles should guide development of community vocational rehabilitation systems:

(a) Work:

(1) Work should be meaningful, necessary, and have value to the individual performing it.

(2) For individuals participating in vocational programs every effort should be made to pay them the minimum wage. However, in all cases, wages paid shall be in compliance with all relevant state and federal labor laws.

(3) That work will result in the development of attributes

that will enhance further employability.

(b) Staff:

(1) Staffing patterns at all levels should reflect the cultural, linguistic, ethnic, racial, disability, sexual, and other social characteristics of the community the program serves.

(2) All participating programs should take affirmative action to encourage the application and employment of consumers and former consumers of the mental health system at all program levels.

(3) Programs should be designed to use multidisciplinary professional consultation and staff to meet the specific needs of clients.

(4) When operating a business enterprise, programs should employ individuals with the business, management, supervisorial, trade, and occupational skills necessary for successful operation.

(5) Programs should, where appropriate, employ paraprofessionals.

(6) Programs should develop and implement staff training and development plans for personnel at all levels.

(c) Facilities:

(1) The individual elements of the system should, where possible, be in separate facilities.

(2) Facilities housing vocational and employment programs should be modeled on competitive businesses operating in the community.

(3) Facilities shall be in compliance with all relevant state and federal safety, health, and accessibility regulations.

(d) System:

(1) Counties developing a community vocational rehabilitation system should utilize existing program resources to develop prevocational programs and a referral base for vocational programs.

(2) Individual programs operate most effectively within the context of a complete system. Counties undertaking development of a community vocational rehabilitation system should commit themselves to the implementation of regionally integrated prevocational and vocational programs.

(3) Rural counties, where appropriate, should be encouraged to develop intercounty systems, or to integrate their programs with programs serving other target populations.

(4) The system should have the capacity to deliver services tailored to individual needs. If a program is found to be unsuitable for a client at a specific time, an explanation will be provided to the client and he or she shall be referred to a more suitable program and encouraged to reapply. The system should have policies designed to meet changing client needs and to work with individuals over time to develop their vocational potential.

(Added by renumbering Section 5694 by Stats. 1991, Ch. 89, Sec. 162. Effective June 30, 1991.)

5693.2. Counties undertaking development of a community vocational rehabilitation system are encouraged to establish an advisory group consisting of primary consumers, parents, representatives from the business community, and other individuals who may provide assistance in developing the system.

(Added by renumbering Section 5695 (as added by Stats. 1985, Ch. 1286) by Stats. 1992, Ch. 1374, Sec. 33. Effective October 28, 1992.)

5693.5. The director shall provide technical assistance to those counties developing a community vocational rehabilitation system. In the event that the department lacks sufficient resources to provide technical assistance, it may be provided by contract.

(Added by renumbering Section 5696 by Stats. 1991, Ch. 89, Sec. 163. Effective June 30, 1991.)

Article 4. Self-Help

(Article 4 added by Stats. 1991, Ch. 89, Sec. 164. Effective June 30, 1991.)

5694. Each community support program for the homeless mentally disabled should also assist its clients to establish self-help groups and peer counseling. Each agency should offer each client a written individualized service plan that will specify the services to be provided as a result of discussions with the client and the rights of the client, as well as the expected results or outcomes of the services. Each program should encourage each client to include family members, friends, his or her primary therapist, and his or her physician in the development of his or her individualized service plan.

(Added by Stats. 1991, Ch. 89, Sec. 164. Effective June 30, 1991.)

5694.5. The counties may utilize designated mental health funding pursuant to this part for establishing and maintaining any client self-help mental health projects.

(Added by Stats. 1991, Ch. 89, Sec. 164. Effective June 30, 1991.)

Article 5. Policy Initiatives for Seriously Emotionally Disturbed Children

(Heading of Article 5 redesignated from Chapter 2.8 by Stats. 1991, Ch. 89, Sec. 165. Effective June 30, 1991.

Note: Former Chapter 2.8 commenced with Section 5697.)

5694.7. When the director of mental health in a county is notified pursuant to Section 319.1 or 635.1, or Section 7572.5 of the Government Code about a specific case, the county mental health director shall assign the responsibility either directly or through contract with a private provider, to review the information and assess whether or not the child is seriously emotionally disturbed as well as to determine the level of involvement in the case needed to assure access to appropriate mental health treatment services and whether appropriate treatment is available through the minor's own resources, those of the family or another private party, including a third-party payer, or through another agency, and to ensure access to services available within the county's program. This determination shall be submitted in writing to the notifying agency within 30 days. If in the course of evaluating the minor, the county mental health director determines that the minor may be dangerous, the county mental health director may request the court to direct counsel not to reveal information to the minor relating to the name and address of the person who prepared the subject report. If appropriate treatment is not available within the county's Bronzan-McCorquodale program, nothing in this section shall prevent the court from ordering treatment directly or through a family's private resources.

(Amended (as renumbered from 5697.5 by Stats. 1991, Ch. 89) by Stats. 1991, Ch. 356, Sec. 1.)

Article 6. Regional Facilities for Seriously Emotionally Disturbed Wards

(Article 6 added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5695. The Legislature finds and declares the following:

(a) The Legislature has declared its intent to provide, at the local level, a range of appropriate mental health services for seriously emotionally disturbed minors. These programs include both outpatient and nonsecure residential care and treatment.

(b) The Legislature recognizes that, while some minors will benefit from this care and treatment, there exists a population within that group who have been adjudged wards of the juvenile court pursuant to Section 602 who are seriously emotionally disturbed, and by lack of behavior control and offense history, are not benefiting from existing programs, including the 24-hour facilities currently being operated under juvenile court law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2).

(c) The Legislature finds that there are no treatment facilities specifically designed and operated to provide both

intensive mental health treatment and behavior control to this population of wards in a secure setting. These wards are frequent failures in open residential care and when confined to traditional juvenile justice system facilities, disrupt programming, endanger themselves and others, and require intensive supervision including occasional isolation and provision of a one-to-one supervision ratio. The behavior and needs of this population affect the ability of the existing facilities to meet the program needs of the remainder of the population which is more appropriately detained or committed there.

(d) Psychiatric hospitals frequently refuse to accept these wards because of their offense history or their extremely disruptive behavior, because they do not always meet medical necessity for acute admission, or because the lengths of stay in inpatient programs are too limited in duration. Because of these problems, seriously emotionally disturbed minors adjudged to be wards pursuant to Section 602 do not receive the level of mental health care necessary to interrupt the cycle of emotional disturbance leading to assaultive or self-destructive behavior.

(e) The Legislature therefore declares its intent to establish regional facilities which will provide an additional dispositional resource to the juvenile justice system, and which will demonstrate the feasibility and effectiveness of providing the services described in this chapter to seriously emotionally disturbed minors who have been adjudged wards of the juvenile court pursuant to Section 602 and whose physical and mental treatment needs require a secure facility and program. It is also the intent of the Legislature to secure for the minors committed to such a facility, the protection, custody, care, treatment, and guidance that is consistent with the purpose of the juvenile court law (Chapter 2 (commencing with Section 200) of Part 1 of Division 2).

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5695.2. There may be established, on a regional basis, secure facilities which are physically and programmatically designed for the commitment and ongoing treatment of seriously emotionally disturbed minors who have been adjudged wards of the juvenile court pursuant to Section 602. No minor shall be committed to the facility for more than 18 months from the date of admission.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5695.5. A board of directors for a facility shall be established to provide oversight and direction to the design, implementation, and operation of the facility in order to ensure adherence to the statement of legislative intent in Section 5590 and to the overall goals and objectives of the facility.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June

30, 1991.)

5695.7. (a) The board of directors shall be composed of the chief probation officer and the local mental health directors of each of the participating counties.

(b) The regional facilities shall operate under the administration of the onsite director who shall be directly responsible to the board of directors for adherence to all policies and procedures established by the board and to the intent of the Legislature stated in Section 5695.

(Amended by Stats. 1991, Ch. 611, Sec. 52. Effective October 7, 1991.)

5696. Prior to the opening of any regional facility, the board of directors shall develop written admission criteria, approved by the Department of the Youth Authority, for those minors who are most at risk of entering the adult criminal justice system as emotionally disordered offenders at high risk of committing predatory and violent crimes, including, but not limited to, the following requirements:

(a) The minor is at the time of commitment between the ages of 12 and 18 years, he or she has been adjudged to be a ward of the juvenile court pursuant to Section 602, and his or her custody has been placed under the supervision of a probation officer pursuant to Section 727.

(b) The ward is seriously emotionally disturbed as is evidenced by a diagnosis from the current edition of the Diagnostic and Statistical Manual of Mental Disorders and evidences behavior inappropriate to the ward's age according to expected developmental norms. Additionally, all of the following must be present:

(1) The behavior presents a danger to the community or self and requires intensive supervision and treatment, but the ward is not amenable to other private or public residential treatment programs because his or her behavior requires a secure setting.

(2) The symptomology is both severe and frequent.

(3) The inappropriate behavior is persistent.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5696.2. No ward shall be admitted to any regional facility described in this chapter who meets any of the following criteria:

(a) The ward has a primary substance abuse problem.

(b) The ward has a primary developmental disability.

(c) The ward requires an acute psychiatric hospital setting.

(d) The ward can benefit from or requires a level of treatment or confinement not provided at the facility.

(e) The ward suffers from a medical condition which

requires ongoing nursing and medical care, beyond the level that the program can provide.

(f) The ward is under conservatorship established pursuant to Chapter 3 (commencing with Section 5350) of this part.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5696.5. Prior to the opening of a facility, the board of directors shall establish written program standards and policies and procedures, approved by the Department of the Youth Authority that address and include, but are not limited to, the following:

(a) A staffing number and pattern that meets the special behavior, supervision, treatment, health, and educational needs of the population described in this chapter. Staff shall be qualified to provide intensive treatment and services and shall include, at a minimum:

(1) A project or clinical director, psychiatrist or psychologist, social worker, registered nurse, and recreation or occupational therapist.

(2) A pediatrician and dentist on an as-needed basis.

(3) Educational staff in sufficient number and with the qualifications needed to meet the population served.

(4) Child care staff in sufficient numbers and with the qualifications to meet the special needs of the population.

(b) Programming to meet the needs of all wards admitted, including, but not limited to, all of the following:

(1) Physical examinations on admission and ongoing health care.

(2) Appropriate and closely monitored use of all behavioral management techniques.

(3) The establishment of written, individual treatment and educational plans and goals for each ward within 10 days of admission and which are updated at least quarterly.

(4) Written discharge planning which addresses each ward's continued treatment, educational, and supervision needs.

(5) Regular, written progress records regarding the care and treatment of each ward.

(6) Regular and structured treatment of all wards, including, but not limited to, individual, group and family therapy, psychological testing, medication, and occupational, or recreational therapy.

(7) Access to neurological testing and laboratory work as needed.

(8) The opportunity for regular family contact and involvement.

(9) A periodic review of the continued need for treatment within the facility.

(10) Educational programming, including special education

as needed.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5696.7. Wards shall be referred for admission to the director of a regional facility following screening and approval through a joint mental health and probation screening committee in the county which refers the minor. This screening process shall be defined in the standards, policies, and procedures governing the operation of the facility. The probation officer shall, in consultation and cooperation with the county mental health staff, process the ward's admission to the facility and implement the discharge plan.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5697. The regional board of directors shall contract with the county in which the regional facility is located for the provision of a public education program which will meet the educational requirements and needs of the wards admitted to the facility.

(Repealed (by Sec. 167) and added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5697.2. The board of directors of a regional facility shall submit to the Director of the Youth Authority, a report which includes, at a minimum, a description of the regional facility, the population to be served, criteria for admission and release, program goals and services, staffing, a postrelease component, appropriate educational programming, an annual evaluation component, and a proposed budget.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

5697.5. The Director of the Youth Authority, in conjunction with the Director of Mental Health, shall adopt rules and regulations to establish, monitor, and enforce minimum standards for regional facilities.

(Added by Stats. 1991, Ch. 89, Sec. 170. Effective June 30, 1991.)

Article 7. System of Care for Seriously Emotionally Disturbed Children and Youth

(Article 7 added by Stats. 1991, Ch. 89, Sec. 171. Effective June 30, 1991.)

5698. It is the intent of the Legislature to encourage in

each county a system of care for seriously emotionally disturbed children and youth. This system of care should be based upon the following principles:

(a) A defined range of interagency services, blended programs and program standards that facilitate appropriate service delivery in the least restrictive environment as close to home as possible. The system should use available and accessible intensive home and school-based alternatives.

(b) A defined mechanism to ensure that services are child centered and family focused with parental participation in all aspects of the planning and delivery of service.

(c) A formalized multiagency policy making council and an interagency case management services council. The roles and responsibilities of these councils should be specified in existing interagency agreements or memoranda of understanding, or both.

(d) A defined interagency case management system designed to facilitate services to the defined target population.

(e) A defined mechanism to ensure that services are culturally competent.

(Repealed (by Sec. 169) and added by Stats. 1991, Ch. 89, Sec. 171. Effective June 30, 1991.)

CHAPTER 2.7. CASE MANAGEMENT FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE

(Heading of Chapter 2.7 renumbered from Chapter 2.55 by Stats. 1991, Ch. 89, Sec. 135. Effective June 30, 1991. Note: Former Chapter 2.55 commenced with Section 5678.)

5699. (a) The Legislature finds and declares all of the following:

(1) That mental health case management services required for children with serious emotional disturbance are different than these services for mentally disordered clients described in Chapter 2.5 (commencing with Section 5670).

(2) That mental health case management services for children with serious emotional disturbance are not defined in statute.

(3) That the development of mental health case management for these children would assure comprehensive appraisal and utilization of the most appropriate resources within the children's environment as well as the maintenance and strengthening of family ties.

(b) It is the intent of the Legislature to encourage the development of mental health case management services for children with serious emotional disturbance who are separated or at risk of

being separated from their families and require mental health treatment, to the extent resources are available. It is further the intent of the Legislature that mental health case management for children with serious emotional disturbance in this state be developed in accordance with the definitions and guidelines contained in this chapter.

(Added by renumbering Section 5692 [as renumbered from 5678 by Ch. 89] by Stats. 1991, Ch. 611, Sec. 50. Effective October 7, 1991.)

5699.1. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

(Added by renumbering Section 5692.5 [as renumbered from 5678.1 by Ch. 89] by Stats. 1991, Ch. 611, Sec. 51. Effective October 7, 1991.)

5699.2. Children identified for case management services under this section shall be minors under 18 years of age described in Section 5600.3 as seriously emotionally disturbed, and who also meet one or more of the following criteria:

(a) A child who is a ward or dependent of the juvenile court pursuant to Section 300, 601, or 602 and is placed out-of-home.

(b) A child who is a special education student defined in paragraph 8 of subdivision (b) of Section 300.5 of Title 34 of the Code of Federal Regulations and is receiving residential care pursuant to an individual educational program. This section also includes special education students through age 21 identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code.

(c) An inpatient in a psychiatric hospital, psychiatric health facility, or residential treatment facility receiving services either on a voluntary or involuntary basis.

(d) An outpatient receiving intensive non-24-hour mental health treatment, such as day treatment or crisis services who is "at risk" of psychiatric hospitalization or out-of-home placement for residential treatment.

(Amended by Stats. 1992, Ch. 1374, Sec. 34. Effective October 28, 1992.)

5699.3. "Individual treatment plan" means a plan that includes all of the following:

(a) An assessment of the minor's specific capabilities and problems.

(b) A statement of specific, time-limited objectives for improving the capabilities and resolving the problems. The objectives shall be stated in measurable terms which allow measurement of progress.

(c) A schedule of the type and amount of services to achieve treatment plan objectives, including identification of the

provider or providers of service responsible for attaining each objective.

(d) A schedule of regular periodic review and reassessment to ascertain that planned services have been provided and that objectives have been reached within the times specified.

(Added by renumbering Section 5699.1 [as renumbered from 5678.3 by Ch. 89] by Stats. 1991, Ch. 611, Sec. 54. Effective October 7, 1991.)

5699.4. On and after January 1, 1987, any county may provide case management services for children with serious emotional disturbance pursuant to this chapter. The case management services may include all of the following:

(a) Development of an individual treatment plan for each child. The plan shall be collaboratively prepared and reviewed and modified, if necessary, at least annually, by one representative of the mental health program, the parents, legal guardian, conservator, or court appointed social worker or probation officer, and, where appropriate, the minor.

(b) Assignment of a mental health case manager to each child. The duties of the mental health case manager may include, but not be limited to, all of the following:

(1) Coordinating an ecological assessment of the child's needs which evaluates the child both individually and in relation to his or her family, school, and community environments.

(2) Developing, implementing, monitoring, and reviewing each individual treatment plan that addresses the identified needs.

(3) Linking and arranging or providing for the needed services.

(4) Monitoring the adequacy of the services provided.

(5) Advocating for the minor.

(Added by renumbering Section 5699.2 [as renumbered from 5678.5 by Ch. 89] by Stats. 1991, Ch. 611, Sec. 55. Effective October 7, 1991.)

5699.5. Nothing in this chapter shall be construed to authorize the use of state funds to provide services under this chapter or to enforce the provisions of this chapter.

(Added by renumbering Section 5678.6 by Stats. 1991, Ch. 89, Sec. 141. Effective June 30, 1991.)

CHAPTER 3. FINANCIAL PROVISIONS

(Chapter 3 repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5700. (a) The Legislature recognizes that mental health services provided by county mental health programs are funded from the following general categories or sources of public funding:

(1) Funds received by counties from the Local Revenue Fund and county funds necessary to meet the federal maintenance of effort requirements.

(2) Funds from appropriations made to the department or for which the department is responsible for administering, which are designated for local mental health services.

(3) Reimbursements through the Medi-Cal program for mental health services to Medi-Cal eligible individuals receiving mental health services from county mental health programs.

(4) Funds from county or local appropriations which are designated for local mental health services.

(b) The Legislature further recognizes that there are procedures and requirements which are unique to each category set forth in subdivision (a), as well as procedures and requirements which apply to all four categories.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5701. (a) To achieve equity of funding, available funding for local mental health programs beyond the funding provided pursuant to Section 17601 shall be distributed to cities, counties, and cities and counties pursuant to the procedures described in subdivision (c) of Section 17606.05.

(b) Funding provided pursuant to Section 6 of Article XIII B of the California Constitution, funding provided pursuant to subdivision (c), and funding provided for future pilot projects shall be exempt from the requirements of subdivision (a).

(c) Effective in the 1994-95 fiscal year and each year thereafter:

(1) The State Department of Mental Health shall annually identify from mental health block grant funds provided by the federal government, the maximum amount that federal law and regulation permit to be allocated to counties and cities and counties pursuant to this subdivision. This section shall apply to any federal mental health block grant funds in excess of the following:

(A) The amount allocated to counties and cities and counties from the alcohol, drug abuse, and mental health block grant in the 1991-92 fiscal year.

(B) Funds for departmental support.

(C) Amounts awarded to counties and cities and counties for children's systems of care programs pursuant to Part 4 (commencing with Section 5850).

(D) Amounts allocated to small counties for the development of alternatives to state hospitalization in the 1993-94 fiscal year.

(E) Amounts appropriated by the Legislature for the

purposes of this part.

(2) Notwithstanding subdivision (a), annually the State Department of Mental Health shall allocate to counties and cities and counties the funds identified in paragraph (1), not to exceed forty million dollars ($40,000,000) in any year. The allocations shall be proportional to each county's and each city and county's percentage of the forty million dollars ($40,000,000) in Cigarette and Tobacco Products Surtax funds that were allocated to local mental health programs in the 1991-92 fiscal year.

(3) Monthly, the Controller shall allocate funds from the Vehicle License Collection Account of the Local Revenue Fund to counties and cities and counties for mental health services. Allocations shall be made to each county or city and county in the same percentages as described in paragraph (2), until the total of the funds allocated to all counties in each year pursuant to paragraph (2) and this paragraph reaches forty million dollars ($40,000,000).

(4) Funds allocated to counties and cities and counties pursuant to paragraphs (2) and (3) shall not be subject to Section 17606.05.

(5) Funds that are available for allocation in any year in excess of the forty million dollar ($40,000,000) limits described in paragraph (2) or (3) shall be deposited into the Mental Health Subaccount of the Local Revenue Fund.

(6) Nothing in this section is intended to, nor shall it, change the base allocation of any city, county, or city and county as provided in Section 17601.

(Amended by Stats. 1994, Ch. 1096, Sec. 1. Effective September 29, 1994.)

5701.2. (a) The department shall maintain records of any transfer of funds or state hospital beds made pursuant to Chapter 1341 of the Statutes of 1991.

(b) Commencing with the 1991-92 fiscal year, the department shall maintain records that set forth that portion of each county's allocation of state mental health moneys that represent the dollar equivalent attributed to each county's state hospital beds or bed days, or both, that were allocated as of May 1, 1991. The department shall provide a written summary of these records to the appropriate committees of the Legislature and the California Mental Health Directors Association within 30 days after the enactment of the annual Budget Act.

(c) Nothing in this section is intended to change the counties' base allocations as provided in subdivisions (a) and (b) of Section 17601.

(Added by Stats. 1993, Ch. 100, Sec. 6. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

5701.3. It is the intent of the Legislature that this chapter not affect the responsibilities to fund psychotherapy and other mental health services required by Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code. Counties shall continue to receive allocations from specifically appropriated funds for psychotherapy and other mental health services provided by the counties in accordance with that chapter.

(Added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5701.4. Costs that were reimbursed, prior to July 1, 1991, from the local assistance appropriation contained in Item 4440-101-001 of the annual Budget Act, shall be reimbursed from funds received by counties pursuant to this chapter.

(Added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5701.5. City-operated Bronzan-McCorquodale programs paid by the state under Section 5615 shall be directly funded in accordance with this chapter.

(Added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5702. For the purposes of this part, the definition of maintenance of effort contained in Section 17608.05 shall apply.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5703. Nothing in this chapter shall prevent a county, or counties acting jointly, from appropriating additional funds for mental health services. In no event shall counties be required to appropriate more than the amount required under the provisions of this chapter.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5704. Funds described in paragraphs (1) and (2) of subdivision (a) of Section 5700 shall be deposited in the mental health account of the local health and welfare trust fund and shall only be used to fund expenditures for the costs of mental health services as delineated in regulations promulgated by the department, and shall not be used to fund expenditures for costs excluded by Section 5714 or for costs specifically excluded from funding from this source by any other provision of law.

(Amended by Stats. 1991, Ch. 611, Sec. 58. Effective October 7, 1991.)

5704.5. (a) It is the intent of the Legislature that

special consideration be given to children's services in funding county services to expand existing programs or to establish new programs.

(b) A county may not decrease the proportion of its funding expended for children's services below the proportion expended in the 1983-84 fiscal year unless a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 has significantly decreased.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5704.6. (a) Except as provided in subdivision (c), each county shall allocate for services to persons under age 18, 50 percent of the amount of any funding augmentation received for new or expanded mental health programs until the amount expended for mental health services to persons under age 18 equals not less than 25 percent of the county's gross budget for mental health or not less than the percentage of persons under age 18 in the total population of the county, whichever percentage is less. Once achieved, this minimum ratio shall be maintained continuously thereafter.

(b) As used in this section, the term "new or expanded mental health programs" does not include any programs which are required by statute, or programs which provide alternatives to hospitalization for patients of state hospitals.

(c) From each funding augmentation for new or expanded mental health programs, a county may allocate to persons under age 18 an amount less than the percentage required in subdivision (a) when a determination has been made by the governing body in a noticed public hearing that the need for new or expanded services to persons under age 18 does not exist or is less than the need for services to one or more specified groups of adults.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5705. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in this section, be given preference in contracts for services under this division.

(b) Negotiated net amount or rates may be used as the cost of services in contracts between the state and the county or contracts between the county and a subprovider of services, or both, in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue. All participating government funding sources, except for the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9), shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county performance

contract for each fiscal year, to the extent that the governmental funding source participates in funding the county mental health programs. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and local mental health programs any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. All participating governmental funding sources shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county and mental health program. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the local mental health program and the local mental health program shall report to the State Department of Mental Health any information required by the department in accordance with procedures established by the Director of Mental Health.

(c) Notwithstanding any other provision of this division or Division 9 (commencing with Section 10000), absent a finding of fraud, abuse, or failure to achieve contract objectives, no restrictions, other than any contained in the contract, shall be placed upon a provider's expenditure or retention of funds received pursuant to this section.

(Amended by Stats. 1991, Ch. 611, Sec. 59. Effective October 7, 1991.)

5706. Notwithstanding any other provision of law, the portions of the county mental health services performance contract which become a contractual arrangement between the county and the department shall be exempt from the requirements contained in the Public Contract Code and the State Administrative Manual, and shall be exempt from approval by the Department of General Services.

(Added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5707. Funds appropriated to the department which are designated for local mental health services and funds which the department is responsible for allocating or administering, including,

but not limited to, federal block grants funds, shall be expended in accordance with this section and Sections 5708 to 5717, inclusive, except when there are conflicting federal requirements, in which case the federal requirements shall be controlling.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5708. (a) To maintain stability during the transition, counties that contracted with the department during the 1990-91 fiscal year on a negotiated net amount basis may continue to use the same funding mechanism.

(b) For those counties that contracted with the department pursuant to subdivision (a) with respect to the 1990-91 fiscal year, the negotiated rate mechanism for Short-Doyle Medi-Cal services for those counties shall be continued until a new ratesetting methodology is developed pursuant to Section 5724.

(Amended by Stats. 1992, Ch. 1374, Sec. 35. Effective October 28, 1992.)

5709. Regardless of the funding source involved, fees shall be charged in accordance with the ability to pay for mental health services rendered but not in excess of actual costs in accordance with Section 5720.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5710. (a) Charges for the care and treatment of each patient receiving service from a county mental health program shall not exceed the actual or negotiated cost thereof as determined or approved by the Director of Mental Health in accordance with standard accounting practices. The director may include the amount of expenditures for capital outlay or the interest thereon, or both, in his or her determination of actual cost. The responsibility of a patient, his or her estate, or his or her responsible relatives to pay the charges and the powers of the director with respect thereto shall be determined in accordance with Article 4 (commencing with Section 7275) of Chapter 3 of Division 7.

(b) The director may delegate to each county all or part of the responsibility for determining the liability of patients rendered services under a county mental health program other than in a state hospital, and the liability of their estates or responsible relatives to pay the charges, and all or part of the responsibility for collecting the charges. If this responsibility is delegated by the director, the director shall establish and maintain the policies and procedures for making the determinations and collections, and each county to which the responsibility is developed shall comply with the policy and procedures.

(c) The director shall prepare and adopt a uniform sliding

scale patient fee schedule to be used in all mental health agencies for services rendered to each patient. In preparing the uniform patient fee schedule, the director shall take into account the existing charges for state hospital services and those for community mental health program services. If the director determines that it is not practicable to devise a single uniform patient fee schedule applicable to both state hospital services and services of other mental health agencies, the director may adopt a separate fee schedule for the state hospital services which differs from the uniform patient fee schedule applicable to other mental health agencies.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5711. (a) In the case of federal audit exceptions, federal audit appeal processes shall be followed unless the State Department of Mental Health, in consultation with the California Conference of Local Mental Health Directors, determines that those appeals are not cost beneficial.

(b) Whenever there is a final federal audit exception against the state resulting from expenditure of federal funds by individual counties, the State Department of Mental Health or the State Department of Health Services may request the Controller's office to offset the county's allocation from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund by the amount of the exception. The Controller shall be provided evidence that the county has been notified of the amount of the audit exception no less than 30 days before the offset is to occur. The State Department of Mental Health and the State Department of Health Services shall involve the appropriate counties in developing responses to any draft federal audit reports which may directly impact the counties.

(Amended by Stats. 1991, Ch. 611, Sec. 60. Effective October 7, 1991.)

5712. The department shall contract with counties for the funds appropriated to, and allocated by, the department pursuant to paragraph (2) of subdivision (a) of Section 5700 in accordance with the following:

(a) The net cost of all services specified in the contract between the counties and the department shall be financed on a basis of 90 percent state funds and 10 percent county funds except for services to be financed from other public or private sources as indicated in the contracts.

(b) The cost requirement for local financial participation pursuant to this section shall be waived for all counties with a population of 125,000 or less based on the most recent available estimates of population data as determined by the Population Research Unit of the Department of Finance.

(Amended by Stats. 1991, Ch. 611, Sec. 61. Effective October 7, 1991.)

5713. Advances for funding mental health services may be made by the Director of Mental Health from funds appropriated to the department for local mental programs and services specified in the annual Budget Act. Any advances made pursuant to this section shall be made in the form and manner the Director of Mental Health shall determine. When certified by the Director of Mental Health, advances shall be presented to the Controller for payment. Each advance shall be payable from the appropriation made for the fiscal year in which the expenses upon which the advance is based are incurred. The advance may be paid monthly in 12 equal increments but the total amount advanced in one fiscal year shall not exceed 95 percent of the county's total allocation for that year.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5714. To continue county expenditures for legal proceedings involving mentally disordered persons, the following costs incurred in carrying out Part 1 (commencing with Section 5000) of this division shall not be paid for from funds designated for mental health services.

(a) The costs involved in bringing a person in for 72-hour treatment and evaluation.

(b) The costs of court proceedings for court-ordered evaluation, including the service of the court order and the apprehension of the person ordered to evaluation when necessary.

(c) The costs of court proceedings in cases of appeal from 14-day intensive treatment.

(d) The cost of legal proceedings in conservatorship other than the costs of conservatorship investigation as defined by regulations of the State Department of Mental Health.

(e) The court costs in postcertification proceedings.

(f) The cost of providing a public defender or other court-appointed attorneys in proceedings for those unable to pay.

(Amended by Stats. 1991, Ch. 611, Sec. 62. Effective October 7, 1991.)

5715. Subject to the approval of the department, at the end of the fiscal year, a county may retain unexpended funds allocated to it by the department from funds appropriated to the department, with the exception of block grant funds, exclusive of the amount required to pay for the care of patients in state hospitals, for 12 months for expenditure for mental health services in accordance with this part.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5716. Counties may contract with providers on a negotiated rate or negotiated net amount basis in the same manner as set forth in Section 5705, except that negotiated rates for Short-Doyle Medi-Cal services shall be approved by the department. If a negotiated rate for Short-Doyle Medi-Cal services is not approved by the department, reimbursement to the county shall be in accordance with applicable provisions of this chapter and department regulation and shall be based upon actual cost.

(Amended by Stats. 1992, Ch. 1374, Sec. 36. Effective October 28, 1992.)

5717. (a) Expenditures which may be funded from amounts allocated to the county by the department from funds appropriated to the department shall include negotiated rates and net amounts; salaries of personnel; approved facilities and services provided through contract; operation, maintenance and service costs including insurance costs or departmental charges for participation in a county self-insurance program if the charges are not in excess of comparable available commercial insurance premiums and on the condition that any surplus reserves be used to reduce future year contributions; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on the facility to the extent it was financed by state funds under this part; lease of facilities where there is no intention to, nor option to, purchase; expenses incurred under this act by members of the California Conference of Local Mental Health Directors for attendance at regular meetings of these conferences; expenses incurred by either the chairperson or elected representative of the local mental health advisory boards for attendance at regular meetings of the Organization of Mental Health Advisory Boards; expenditures included in approved countywide cost allocation plans submitted in accordance with the Controller's guidelines, including, but not limited to, adjustments of prior year estimated general county overhead to actual costs, but excluding allowable costs otherwise compensated by state funding; net costs of conservatorship investigation, approved by the Director of Mental Health. Except for expenditures made pursuant to Article 6 (commencing with Section 436.30) of Chapter 4 of Part 1 of Division 1 of the Health and Safety Code, it shall not include expenditures for initial capital improvements; the purchaser or construction of buildings except for equipment items and remodeling expense as may be provided for in regulations of the State Department of Mental Health; compensation to members of a local mental health advisory board, except actual and necessary expenses incurred in the performance of official duties which may include travel, lodging, and meals while on official business; or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

(b) The director may make investigations and audits of

expenditures the director may deem necessary.

(c) With respect to funds allocated to a county by the department from funds appropriated to the department, the county shall repay to the state amounts found not to have been expended in accordance with the requirements set forth in this part. Repayment shall be within 30 days after it is determined that an expenditure has been made that is not in accordance with the requirements. In the event that repayment is not made in a timely manner, the department shall offset any amount improperly expended against the amount of any current or future advance payment or cost report settlement from the state for mental health services. Repayment provisions shall not apply to Short-Doyle funds allocated by the department for fiscal years up to and including the 1990-91 fiscal year.

(Amended by Stats. 1992, Ch. 1374, Sec. 37. Effective October 28, 1992.)

5718. (a) (1) This section and Sections 5719 to 5724, inclusive, shall apply to mental health services provided by counties to Medi-Cal eligible individuals. Counties shall provide services to Medi-Cal beneficiaries and seek the maximum federal reimbursement possible for services rendered to the mentally ill.

(2) To the extent permitted under federal law, funds deposited into the local health and welfare trust fund from the Sales Tax Account of the Local Revenue Fund may be used to match federal medicaid funds in order to achieve the maximum federal reimbursement possible for services pursuant to this chapter. If a county applies to use local funds, the department may enforce any additional federal requirements that use may involve, based on standards and guidelines designed to enhance, protect, and maximize the claiming of those resources.

(3) The standards and guidelines for the administration of mental health services to Medi-Cal eligible persons shall be based on federal medicaid requirements.

(b) With regard to each person receiving mental health services from a county mental health program, the county shall determine whether the person is Medi-Cal eligible and if determined to be Medi-Cal eligible, the person shall be referred when appropriate to a facility, clinic, or program which is certified for Medi-Cal reimbursement.

(c) With regard to county operated facilities, clinics, or programs for which claims are submitted to the department for Medi-Cal reimbursement for mental health services to Medi-Cal eligible individuals, the county shall ensure that all requirements necessary for Medi-Cal reimbursement for these services are complied with, including, but not limited to, utilization review and the submission of year-end cost reports.

(d) Counties shall certify to the state that required matching funds are available prior to the reimbursement of federal

funds.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5719. Each public or private facility or agency providing local mental health services pursuant to a county performance contract plan shall make a written certification within 30 days after a patient is admitted to the facility as a patient or first given services by such a facility or agency, to the local mental health director of the county, stating whether or not each of these patients is presumed to be eligible for mental health services under the California Medical Assistance Program.

(Repealed and added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5719.5. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, the State Department of Mental Health may, in consultation with the State Department of Health Services, field test major components of a capitated, integrated service system of Medi-Cal mental health managed care in not less than two, and not more than five participating counties.

(b) County participation in the field test shall be at the counties' option.

(c) Counties eligible to participate in the field test described in subdivision (a) shall include either of the following:

(1) Any county with an existing county organized health system.

(2) Any county that has been designated for the development of a new county organized health system.

(d) The State Department of Mental Health, in consultation with the State Department of Health Services, the counties selected for field testing, and groups representing mental health clients, their families and advocates, county mental health directors, and public and private mental health professionals and providers, shall develop, for the purpose of the field test, major components for an integrated, capitated service system of Medi-Cal mental health managed care, including, but not limited to, all of the following:

(1) (A) A definition of medical necessity.

(B) The preliminary definition developed pursuant to this paragraph shall be submitted to the Legislature no later than February 1, 1994.

(2) Protocols for facilitating access and coordination of mental health, physical health, educational, vocational, and other supportive services for persons receiving services through the field test.

(3) Procedures for promoting quality assurance, performance monitoring measures and outcome evaluation, including measures of client satisfaction, and procedures for addressing

beneficiary grievances concerning service denials, changes, or terminations.

(e) Counties participating in the field test shall report to the State Department of Mental Health as the department deems necessary.

(f) Counties participating in the field test shall do both of the following:

(1) (A) Explore, in consultation with the State Department of Mental Health, the State Department of Health Services, and the California Mental Health Directors Association, rates for capitated, integrated Medi-Cal mental health managed care systems, using an actuarially sound ratesetting methodology.

(B) These rates shall be evaluated by the State Department of Mental Health and the State Department of Health Services to determine their fiscal impact, and shall result in no increase in cost to the General Fund, compared with the cost that would occur under the existing organization of Medi-Cal funded mental health services, except for caseload growth and price increases as included in the Medi-Cal estimates prepared by the State Department of Health Services and approved by the Department of Finance. In evaluating the fiscal impact of these rates, the departments shall take into account any shift in clients between Medi-Cal programs in which the nonfederal match is funded by state funds and those in which the match is funded by local funds.

(2) Demonstrate the appropriate fiscal relationship between county organized health systems for the federal medicaid program and integrated, capitated Medi-Cal mental health managed care programs.

(g) The State Department of Mental Health, in consultation with the State Department of Health Services, the counties participating in the field test, and groups representing mental health clients, their families and advocates, county mental health directors, and public and private mental health professionals and providers, shall prepare and submit a progress report to the Legislature on the results of the field test. The report shall be submitted no later than July 1, 1995, and shall include the following elements:

(1) Evaluation of client satisfaction with capitated, integrated Medi-Cal mental health managed care.

(2) Evaluation of performance outcome measures and, to the extent data is available, information concerning outcomes in the areas of personal and community functioning for persons served in the field test.

(3) Evaluation of the validity of the definition of medical necessity in distinguishing levels of need for mental health services.

(4) Information necessary to determine whether the capitation methodology developed, and as utilized, protects the service needs and rights of beneficiaries of capitated, integrated Medi-Cal mental health managed care and minimizes the financial risks to systems providing that care.

(Added by Stats. 1993, Ch. 640, Sec. 3. Effective January 1, 1994.)

5720. (a) Notwithstanding any other provision of law, the director, in the 1993-94 fiscal year and fiscal years thereafter, subject to the approval of the Director of Health Services, shall establish the amount of reimbursement for services provided by county mental health programs to Medi-Cal eligible individuals.

(b) Notwithstanding this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by that agreement.

(Amended by Stats. 1993, Ch. 788, Sec. 6. Effective October 4, 1993.)

5721. Except as otherwise provided in this section, in determining the amounts which may be paid, fees paid by persons receiving services or fees paid on behalf of persons receiving services by the federal government, by the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9, and by other public or private sources, shall be deducted from the costs of providing services. However, a county may negotiate a contract which permits a mental health care provider to retain unanticipated funds above the budgeted contract amount, provided that the unanticipated revenues are utilized for the mental health services specified in the contract. If a provider is permitted by contract to retain unanticipated revenues above the budgeted amount, the mental health provider shall specify the services funded by those revenues in the year end cost report submitted to the county. A county shall not permit the retention of any fees paid by private resources on behalf of Medi-Cal beneficiaries without having those fees deducted from the costs of providing services. Whenever feasible, mentally disordered persons who are eligible for mental health services under the California Medical Assistance Program shall be treated in a facility approved for reimbursement in that program. General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be considered as "fees paid by persons" or "fees paid on behalf of persons receiving services" under this section and the contributions shall not be applied in determining the amounts to be paid. These unrestricted contributions shall not be used in part or in whole to defray the costs or the allocated costs of the California Medical Assistance Program.

(Amended by Stats. 1991, Ch. 611, Sec. 64. Effective October 7, 1991.)

5722. (a) The department shall have responsibility, as

delegated by the State Department of Health Services, for conducting investigations and audits of claims and reimbursements for expenditures for mental health services provided by county mental health programs to Medi-Cal eligible individuals.

(b) The amount of the payment or repayment of federal funds in accordance with audit findings pertaining to Short-Doyle Medi-Cal mental health services shall be determined by the State Director of Health Services pursuant to the existing administrative appeals process of the State Department of Health Services.

(Amended by Stats. 1991, Ch. 611, Sec. 65. Effective October 7, 1991.)

5723. The provisions of subdivision (a) of Section 14000 shall not be construed to prevent providers of mental health services pursuant to this part from also being providers of medical assistance mental health services for the purposes of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9. Clinics providing mental health services pursuant to this part shall not be required to be licensed as a condition to reimbursement for providing such medical assistance mental health services.

(Added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5723.5. Nothwithstanding any other provision of state law, and to the extent permitted by federal law and consistent with federal regulations governing these claims, the state may seek federal reimbursement for back claims under the Short-Doyle Medi-Cal program.

(Added by Stats. 1991, Ch. 89, Sec. 174. Effective June 30, 1991.)

5724. (a) The department and the State Department of Health Services shall jointly develop a new ratesetting methodology for use in the Short-Doyle Medi-Cal system that maximizes federal funding and utilizes, as much as practicable, federal medicare reimbursement principles. The departments shall work with the counties and the federal Health Care Financing Administration in the development of the methodology required by this section.

(b) Rates developed through the methodology required by this section shall apply only to reimbursement for direct client services.

(c) Administrative costs shall be claimed separately and shall be limited to 15 percent of the total cost of direct client services.

(d) The cost of performing utilization reviews shall be claimed separately and shall not be included in administrative cost.

(e) The ratesetting methodology established pursuant to this section shall contain incentives relating to economy and efficiency in service delivery.

(f) The rates established for direct client services pursuant to this section shall be based on increments of time for all noninpatient services.

(g) The ratesetting methodology shall not be implemented until it has received any necessary federal approvals.

(Amended by Stats. 1993, Ch. 788, Sec. 7. Effective October 4, 1993.)

CHAPTER 3.5. MENTAL HEALTH MASTER PLAN DEVELOPMENT ACT

(Chapter 3.5 added by Stats. 1989, Ch. 1313, Sec. 1.)

5730. This act is to be known as the Mental Health Master Plan Development Act.

(Added by Stats. 1989, Ch. 1313, Sec. 1.)

5731. The Legislature finds and declares that the mental health system is a large and important segment of California's system of health care. The Legislature further finds and declares all of the following:

(a) Public Law 99-660 requires that the State Department of Mental Health develop a state plan for the Short-Doyle mental health system which includes all of the following:

(1) Plans developed in response to federal planning requirements shall be submitted to the Legislature.

(2) Evidence of broad participation from concerned citizens and mental health consumers.

(3) An analysis of the needs of seriously and persistently mentally ill adults, severely emotionally disturbed children and homeless mentally ill in California.

(4) Improvements in the mental health delivery system are needed for seriously mentally ill adults, severely emotionally disabled children, and homeless mentally ill.

(5) Given the existing mental health funding base, priorities need to be established for the Short-Doyle community mental health system.

(6) There is no minimum range of treatment services which should be available in every county in California.

(7) Most funding formulas for state mental health programs are not client based.

(8) The state has a special responsibility for the care and treatment of seriously and persistently mentally ill adults, seriously emotionally disturbed minors, and homeless mentally ill who are the most vulnerable and who require consistent supportive services to meet their health and safety needs in the community.

(9) Legislative action is required to ensure that a

comprehensive policy is developed which addresses the critical problems and key issues currently facing the mental health system in California.

(Added by Stats. 1989, Ch. 1313, Sec. 1.)

5732. (a) Given the requirements of Public Law 99-660 and the significant policy issues currently facing the mental health system in California, a master plan for mental health is required which integrates these planning and reform efforts and which establishes priorities for the service delivery system and analyzes critical policy issues.

(b) The California Planning Council's scope shall be expanded to include the development of the Mental Health Master Plan. This Mental Health Master Plan shall be distinct but compatible with the plan mandated by Public Law 99-660, the development and implementation of which is the responsibility of the State Department of Mental Health.

(c) Therefore, the California Planning Council required by Public Law 99-660 shall be expanded to include the following members:

(1) The Speaker of the Assembly shall recommend to the Governor for appointment, one council member.

(2) The Assembly Minority Floor Leader shall recommend to the Governor for appointment, one council member.

(3) The President pro Tempore of the Senate shall recommend to the Governor for appointment, one council member.

(4) The Senate Minority Floor Leader shall recommend to the Governor for appointment, one council member.

(5) The County Supervisors Association of California shall recommend to the Governor for appointment, one council member.

(d) The Mental Health Master Plan shall be completed and submitted to the Legislature and the Governor by October 1, 1991.

(Added by Stats. 1989, Ch. 1313, Sec. 1.)

5733. The Mental Health Master Plan shall include, but not be limited to, an analysis of all of the following:

(a) The specific planning elements required by Public Law 99-660.

(b) Identification of priority populations to be served and a definition of those priority populations.

(c) Proposed methods of allocating resources which result in the most effective system of care possible for the priority populations.

(d) Proposed methods of evaluating the effectiveness of current service delivery methods and the populations which are best served by these models of care.

(e) Recommendations related to the governance and responsibilities of the state, county, or other administrative structures for the delivery of mental health programs which are

cost-effective and provide the highest quality of care.

(Added by Stats. 1989, Ch. 1313, Sec. 1.)

5734. (a) The State Department of Mental Health shall, to the extent resources are available, review the recommendations contained in the Mental Health Master Plan, as submitted by the California Mental Health Planning Council on October 1, 1991.

(b) By March 1, 1993, the State Department of Mental Health shall submit, to the appropriate committees of the Legislature, its findings as to which recommendations are programmatically and fiscally desirable and feasible, with suggested timelines for adoption.

(Amended by Stats. 1993, Ch. 564, Sec. 4. Effective January 1, 1994.)

CHAPTER 4. OPERATION AND ADMINISTRATION

(Chapter 4 added by Stats. 1968, Ch. 989.)

5750. (a) The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations shall be adopted only after consultation with the California Council on Mental Health and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session except for regulations pertaining to psychiatric health facilities. For regulations pertaining to psychiatric health facilities, the vote by the conference, following consultation, shall be only advisory to the State Department of Mental Health.

(b) If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on Mental Health, and a member designated by the State Advisory Health Council.

(c) (1) From July 1, 1991, to June 30, 1993, inclusive, the conference shall not approve regulations of the State Department of Mental Health. The impact on this subdivision of regulatory timing shall be included in the department's report to the Legislature on

September 30, 1992.

(2) The department shall continue during that period to involve the conference in the development of all regulations which affect local mental health programs, prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

(Amended by Stats. 1991, Ch. 611, Sec. 67. Effective October 7, 1991.)

5750.1. Notwithstanding Section 5750, any standard, rule, or policy, not directly the result of a statutory or administrative law change, adopted by the department or county during the term of an existing county performance contract shall not apply to the negotiated rate and net amount terms of that contract under Sections 5705 and 5716, but shall only apply to contracts established after adoption of the standard, rule, or policy.

(Amended by Stats. 1991, Ch. 611, Sec. 68. Effective October 7, 1991.)

5751. (a) Regulations pertaining to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607. These standards may include the maintenance of records of service which shall be reported to the State Department of Mental Health in a manner and at such times as it may specify.

(b) Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director be a psychiatrist, psychologist, clinical social worker, marriage, family and child counselor, registered nurse, or hospital administrator, who meets standards of education and experience established by the Director of Mental Health. Where the director is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2051 of the Business and Professions Code.

(c) The regulations shall be adopted in accordance with the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(Amended by Stats. 1991, Ch. 89, Sec. 178. Effective June 30, 1991.)

5751.1. Regulations pertaining to the position of director of local mental health services, where the local director is other than the local health officer or medical administrator of the county hospitals, shall require that the director meet the standards of education and experience established by the Director of Mental Health and that the appointment be open on the basis of competence to all eligible disciplines pursuant to Section 5751. Regulations pertaining

to the qualifications of directors of local mental health services shall be administered in accordance with Section 5607.

Where the director of local mental health services is not a psychiatrist, the program shall have a psychiatrist licensed to practice medicine in this state and who shall provide to patients medical care and services as authorized by Section 2137 of the Business and Professions Code.

(Amended by Stats. 1978, Ch. 726.)

5751.2. (a) Except as provided in this section, persons employed or under contract to provide mental health services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed in local mental health programs pursuant to this part to provide services for which such a license is required, unless the person possesses a currently valid license.

(b) Persons employed as psychologists and clinical social workers, while continuing in their employment in the same class as of January 1, 1979, in the same program or facility, including those persons on authorized leave, but not including intermittent personnel, shall be exempt from the requirements of subdivision (a). Additionally, the requirements of subdivision (a) may be waived by the department solely for persons in the professions of psychology, clinical social work, or marriage, family and child counseling who are gaining qualifying experience for licensure in the profession.

(c) A waiver granted pursuant to subdivision (b) shall not exceed four years from commencement of employment in the case of full-time clinical social workers, or in the case of marriage, family and child counselors, at which time licensure shall have been obtained or the employment shall be terminated. However, the department may grant an extension of a waiver of licensure for one additional year, based on extenuating circumstances as determined by the department pursuant to subdivision (f). For persons employed as clinical social workers or marriage, family and child counselors less than full time, an extension of a waiver of licensure may be granted for additional years proportional to the extent of part-time employment, as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed six years.

(d) A waiver granted pursuant to subdivision (b) shall not exceed two years from commencement of employment in the case of psychologists, at which time licensure shall have been obtained or the employment shall be terminated. For persons employed full time as a psychologist, the department may grant an extension of a waiver of licensure for an additional year, based upon extenuating circumstances as determined by the department. For persons employed less than full time as a psychologist, the department may grant an extension of a waiver of licensure for additional years proportional to the extent of part-time employment, based upon extenuating circumstances as

determined by the department as long as the person is employed without interruption in service, but in no case shall the waiver of licensure exceed five years.

(e) However, the durational limitations upon waivers shall not apply to active candidates for a doctoral degree in social work, social welfare, or social science, who are enrolled at an accredited university, college, or professional school, but these limitations shall apply following completion of this training. Additionally, this durational limitation upon waivers shall not apply to active candidates for a doctoral degree in marriage, family and child counseling or marital and family therapy who are enrolled at a school, college, or university, specified in subdivision (a) of Section 4980.40 of the Business and Professions Code, but the limitations shall apply following completion of the training. A waiver pursuant to this section shall be granted only to the extent necessary to qualify for licensure, except that personnel recruited for employment from outside this state and whose experience is sufficient to gain admission to a licensing examination shall, nevertheless, have two years from the date of their employment in California to become licensed, at which time licensure shall have been obtained or the employment shall be terminated. The department may grant an extension of a waiver of licensure for personnel recruited from outside this state for one additional year, based upon extenuating circumstances as determined by the department pursuant to subdivision (f).

(f) The department shall grant a request for an extension of a waiver based on extenuating circumstances, pursuant to subdivision (c) or (e), if any of the following circumstances exist:

(1) The person requesting the extension has experienced a recent catastrophic event which may impair the person's ability to qualify for and pass the license examination. Those events may include, but are not limited to, significant hardship caused by a natural disaster, serious and prolonged illness of the person, serious and prolonged illness or death of a child, spouse, or parent, or other stressful circumstances.

(2) The person requesting the extension has difficulty speaking or writing the English language, or other cultural and ethnic factors exist which substantially impair the person's ability to qualify for and pass the license examination.

(3) The person requesting the extension has experienced other personal hardship which the department, in its discretion, determines to warrant the extension.

(Added by renumbering Section 5603 by Stats. 1992, Ch. 1374, Sec. 19. Effective October 28, 1992.)

5751.7. For the purposes of this part and the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000)), the department shall ensure that, whenever feasible, minors shall not be admitted into psychiatric treatment with adults if the health

facility has no specific separate housing arrangements, treatment staff, and treatment programs designed to serve children or adolescents. The director shall provide waivers to counties, upon their request, if this policy creates undue hardship in any county due to inadequate or unavailable alternative resources. In granting the waivers, the director shall require the county to establish specific treatment protocols and administrative procedures for identifying and providing appropriate treatment to minors admitted with adults.

However, notwithstanding any other provision of law, no minor may be admitted for psychiatric treatment into the same treatment ward as any adult receiving treatment who is in the custody of any jailor for a violent crime, is a known registered sex offender, or has a known history of, or exhibits inappropriate, sexual, or other violent behavior which would present a threat to the physical safety of minors.

(Added by Stats. 1987, Ch. 1107, Sec. 1. Effective September 25, 1987.)

5755.1. The state mental health plan shall be submitted to the California Council on Mental Health and the Advisory Health Council or its successor for review and recommendations as to conformance with California's comprehensive statewide health plan. The state mental health plan shall be submitted for review and recommendations prior to amendments or changes thereto.

(Amended by Stats. 1985, Ch. 1232, Sec. 29. Effective September 30, 1985.)

5768. (a) Notwithstanding any other provision of law, except as to requirements relating to fire and life safety of persons with mental illness, the department, in its discretion, may permit new programs to be developed and implemented without complying with licensure requirements established pursuant to existing state law.

(b) Any program developed and implemented pursuant to subdivision (a) shall be reviewed at least once each six months, as determined by the department.

(c) The department may establish appropriate licensing requirements for such new programs upon a determination that such programs should be continued.

(d) Within four years, any program shall require a licensure category if it is to be continued. However, in the event that any agency other than the department is responsible for developing a licensure category and fails to do so within the four years, the program may continue to be developed and implemented pursuant to subdivisions (a) and (b) until such time that the licensure category is established.

(e) (1) A nongovernmental entity proposing a program shall submit a program application and plan to the local mental health director that describes at least the following components: clinical

treatment programs, activity programs, administrative policies and procedures, admissions, discharge planning, health records content, health records service, interdisciplinary treatment teams, client empowerment, patient rights, pharmaceutical services, program space requirements, psychiatric and psychological services, rehabilitation services, restraint and seclusion, space, supplies, equipment, and staffing standards. If the local mental health director determines that the application and plan are consistent with local needs and satisfactorily address the above components, he or she may approve the application and plan and forward them to the department.

(2) Upon the department's approval, the local mental health director shall implement the program and shall be responsible for regular program oversight and monitoring. The department shall be notified in writing of the outcome of each review of the program by the local mental health director, or his or her designee, for compliance with program requirements. The department shall retain ultimate responsibility for approving the method for review of each program, and the authority for determining the appropriateness of the local program's oversight and monitoring activities.

(f) Governmental entities proposing a program shall submit a program application and plan to the department that describes at least the components described in subdivision (e). Upon approval, the department shall be responsible for program oversight and monitoring.

(g) Implementation of a program shall be contingent upon the department's approval, and the department may reject applications or require such modifications as it deems necessary. The department shall respond to each proposal within 90 days of receipt.

(h) The State Department of Health Services shall allow an applicant approved by the department with a current health facility license to place its license in suspense for a period of four years. At that time the department, in consultation with the State Department of Health Services shall determine the most appropriate licensure for the program, pursuant to subdivisions (c) and (d).

(i) The department shall submit an evaluation to the Legislature of all pilot projects authorized pursuant to this section within three years of the commencement of operation of the pilot project, determining the effectiveness of that program or facility, or both, based on, but not limited to, changes in clinical indicators with respect to client functions.

(Amended by Stats. 1994, Ch. 678, Sec. 2. Effective January 1, 1995.)

5769. Whenever the director determines that a county's personnel regulations and procedures are impediments to the timely implementation of programs developed and implemented pursuant to Section 5768, the director shall communicate such determination to the governing body of such county.

(Added by Stats. 1975, Ch. 1105.)

5770. Notwithstanding any other provision of law, the department may directly, or by contract, with any public or private agency, provide any of the services under this division when the director determines that the services are necessary to protect the public health, safety, or welfare.

(Added by Stats. 1984, Ch. 1327, Sec. 91. Effective September 25, 1984.)

5770.5. The department shall encourage county mental health programs to develop and support local programs designed to provide technical assistance to self-help groups for the purposes of maintaining existing groups, as well as to stimulate development of new self-help groups from locally defined needs.

(Added by Stats. 1985, Ch. 1286, Sec. 14.5. Effective September 30, 1985.)

5771. (a) Pursuant to Public Law 102-321, there is the California Mental Health Planning Council. The purpose of the planning council shall be to fulfill those mental health planning requirements mandated by federal law.

(b) (1) The planning council shall have 40 members, to be comprised of members appointed from both the local and state levels in order to ensure a balance of state and local concerns relative to planning.

(2) As required by federal law, eight members of the planning council shall represent various state departments.

(3) Members of the planning council shall be appointed in such a manner as to ensure that at least one-half are persons with mental disabilities, family members of persons with mental disabilities, and representatives of organizations advocating on behalf of persons with mental disabilities. Persons with mental disabilities and family members shall be represented in equal numbers.

(4) The Director of Mental Health shall make appointments from nominees from mental health constituency organizations, which shall include representatives of consumer-related advocacy organizations, representatives of mental health professional and provider organizations, and one representative of the California Coalition on Mental Health.

(c) Members should be balanced according to demography, geography, gender, and ethnicity. Members should include representatives with interest in all target populations, including, but not limited to, children and youth, adults, and older adults.

(d) The planning council shall annually elect a chairperson and a vice chairperson.

(e) The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.

(f) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

(Amended by Stats. 1993, Ch. 564, Sec. 5. Effective January 1, 1994. Repealed as of January 1, 1996, by its own provisions.)

5771.3. (a) The California Mental Health Planning Council may utilize staff of the State Department of Mental Health, to the extent they are available, and the staff of any other public or private agencies that have an interest in the mental health of the public and that are able and willing to provide those services.

(b) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

(Amended by Stats. 1993, Ch. 564, Sec. 6. Effective January 1, 1994. Repealed as of January 1, 1996, by its own provisions.)

5771.5. (a) (1) The chairperson of the California Mental Health Planning Council, with the concurrence of a majority of the members of the California Mental Health Planning Council, shall appoint an executive officer who shall have those powers delegated to him or her by the council in accordance with this chapter.

(2) The executive officer shall be exempt from civil service.

(b) Within the limit of funds allotted for these purposes, the California Mental Health Planning Council may appoint other staff it may require according to the rules and procedures of the civil service system.

(c) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

(Amended by Stats. 1993, Ch. 564, Sec. 7. Effective January 1, 1994. Repealed as of January 1, 1996, by its own provisions.)

5772. The California Mental Health Planning Council shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(a) To advocate for effective, quality mental health programs.

(b) To review, assess, and make recommendations regarding all components of California's mental health system, and to report as

necessary to the Legislature, the State Department of Mental Health, local boards, and local programs.

(c) To review program performance in delivering mental health services by annually reviewing performance outcome data as follows:

(1) To review and approve the performance outcome measures.

(2) To review the performance of mental health programs based on performance outcome data and other reports from the State Department of Mental Health and other sources.

(3) To report findings and recommendations on programs' performance annually to the Legislature, the State Department of Mental Health, and the local boards.

(4) To identify successful programs for recommendation and for consideration of replication in other areas. As data and technology are available, identify programs experiencing difficulties.

(d) When appropriate, make a finding pursuant to Section 5655 that a county's performance is failing in a substantive manner. The State Department of Mental Health shall investigate and review the finding, and report the action taken to the Legislature.

(e) To advise the Legislature, the State Department of Mental Health, and county boards on mental health issues and the policies and priorities that this state should be pursuing in developing its mental health system.

(f) To periodically review the state's data systems and paperwork requirements to ensure that they are reasonable and in compliance with state and federal law.

(g) To make recommendations to the State Department of Mental Health on the award of grants to county programs to reward and stimulate innovation in providing mental health services.

(h) To conduct public hearings on the state mental health plan, the Substance Abuse and Mental Health Services Administration block grant, and other topics, as needed.

(i) To participate in the recruitment of candidates for the position of Director of Mental Health, and provide advice on the final selection.

(j) In conjunction with other statewide and local mental health organizations, assist in the coordination of training and information to local mental health boards as needed to ensure that they can effectively carry out their duties.

(k) To advise the Director of Mental Health on the development of the state mental health plan and the system of priorities contained in that plan.

(l) To assess the effect of realignment of mental health services from the state to the counties on the delivery of those services, and report its findings to the Legislature, the State Department of Mental Health, local programs, and local boards no later than January 1, 1995.

(m) To suggest rules, regulations, and standards for the

administration of this division.

(n) When requested, to mediate disputes between counties and the state arising under this part.

(o) To employ administrative, technical, and other personnel necessary for the performance of its powers and duties, subject to the approval of the Department of Finance.

(p) To accept any federal fund granted, by act of Congress or by executive order, for purposes within the purview of the California Mental Health Planning Council, subject to the approval of the Department of Finance.

(q) To accept any gift, donation, bequest, or grants of funds from private and public agencies for all or any of the purposes within the purview of the California Mental Health Planning Council, subject to the approval of the Department of Finance.

(r) This section shall remain in effect only until January 1, 1996, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 1996, deletes or extends that date.

(Amended by Stats. 1993, Ch. 564, Sec. 8. Effective January 1, 1994. Repealed as of January 1, 1996, by its own provisions.)

PART 2.5. MENTAL HEALTH MANAGED CARE CONTRACTS

(Part 2.5 added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994. Implementation contingent upon federal waivers, pursuant to Section 5780. Conditionally inoperative as prescribed by Section 5780.)

5775. (a) Notwithstanding any other provision of state law, the State Department of Mental Health shall implement managed mental health care for Medi-Cal beneficiaries through fee-for-service or capitated rate contracts with mental health plans, including individual counties, counties acting jointly, any qualified individual or organization, or a nongovernmental entity. A contract may be exclusive and may be awarded on a geographic basis.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of mental health services. The agreement may encompass all or any portion of the mental health services provided pursuant to this part. This agreement shall not relieve the individual counties of financial responsibility for providing these services. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.

(c) The department shall offer to contract with each county for the delivery of mental health services to that county's Medi-Cal beneficiary population prior to offering to contract with any other entity, upon terms at least as favorable as any offered to a noncounty

contract provider. If a county elects not to contract with the department, does not renew its contract, or does not meet the minimum standards set by the department, the department may elect to contract with any other governmental or nongovernmental entity for the delivery of mental health services in that county and may administer the delivery of mental health services until a contract for a mental health plan is implemented. The county may not subsequently contract to provide mental health services under this part unless the department elects to contract with the county.

(d) If a county does not contract with the department to provide mental health services, the county shall transfer the responsibility for Short-Doyle Medi-Cal reimbursable mental health services and the anticipated county matching funds needed for Short-Doyle Medi-Cal mental health services in that county to the department. The amount of the anticipated county matching funds shall be determined by the department in consultation with the county, and shall be adjusted annually. The amount transferred shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors. The anticipated county matching funds shall be used by the department to contract with another entity for mental health services, and shall not be expended for any other purpose but the provision of those services and related administrative costs. The county shall continue to deliver non-Medi-Cal reimbursable mental health services in accordance with this division, and subject to subdivision (i) of Section 5777.

(Added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994. Conditionally inoperative as prescribed by Section 5780.)

5776. (a) The department and its mental health plan contractors shall comply with all applicable federal laws, regulations, and guidelines, and, except as provided in this part, all applicable state statutes and regulations.

(b) If federal requirements that affect the provisions of this part are changed, it is the intent of the Legislature that state requirements be revised to comply with those changes.

(Added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994. Conditionally inoperative as prescribed by Section 5780.)

5777. (a) (1) Except as otherwise specified in this part, a contract entered into pursuant to this part shall include a provision that the mental health plan contractor shall bear the financial risk for the cost of providing medically necessary mental health services to Medi-Cal beneficiaries irrespective of whether the cost of those services exceeds the payment set forth in the contract. If the expenditures for services do not exceed the payment set forth in the contract, the mental health plan contractor shall report the

unexpended amount to the department, but shall not be required to return the excess to the department.

(2) If the mental health plan is not the county, the mental health plan may not transfer the obligation for any mental health services to Medi-Cal beneficiaries to the county. The mental health plan may purchase services from the county. The mental health plan shall establish mutually agreed-upon protocols with the county that clearly establish conditions under which beneficiaries may obtain non-Medi-Cal reimbursable services from the county. Additionally, the plan shall establish mutually agreed-upon protocols with the county for the conditions of transfer of beneficiaries who have lost Medi-Cal eligibility to the county for care under Part 2 (commencing with Section 5600), Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850).

(3) The mental health plan shall be financially responsible for ensuring access and a minimum required scope of benefits, consistent with state and federal requirements, to the services to the Medi-Cal beneficiaries of that county regardless of where the beneficiary resides. The department shall require that the definition of medical necessity used, and the minimum scope of benefits offered, by each mental health contractor be the same, except to the extent that any variations receive prior federal approval and are consistent with state and federal statutes and regulation.

(b) Any contract entered into pursuant to this part may be renewed if the plan continues to meet the requirements of this part, regulations promulgated pursuant thereto, and the terms and conditions of the contract. Contract renewal shall be on an annual basis. Failure to meet these requirements shall be cause for nonrenewal of the contract. The department may base the decision to renew on timely completion of a mutually agreed upon plan of correction of any deficiencies, submissions of required information in a timely manner, or other conditions of the contract.

(c) To the extent permitted by federal law, either the department or the mental health plan may request that contract negotiations be reopened during the course of a contract due to substantial changes in the cost of covered benefits that result from new legislative requirements affecting the scope of services or eligible population, or other unanticipated event.

(d) The department shall immediately terminate a contract when the director finds that there is an immediate threat to the health and safety of Medi-Cal beneficiaries. Termination of the contract for other reasons shall be subject to reasonable notice of the department's intent to take that action and notification of affected beneficiaries. The plan may request a public hearing by the Office of Administrative Hearings.

(e) A plan may terminate its contract in accordance with the provisions in the contract. The plan shall provide written notice to the department at least 180 days prior to the termination or

nonrenewal of the contract.

(f) Upon the request of the Director of Mental Health, the Commissioner of Corporations may exempt a mental health plan contractor or a capitated rate contract from the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code). These exemptions may be subject to conditions the director deems appropriate. Nothing in this part shall be construed to impair or diminish the authority of the Commissioner of Corporations under the Knox-Keene Health Care Service Plan Act of 1975, nor shall anything in this part be construed to reduce or otherwise limit the obligation of a mental health plan contractor licensed as a health care service plan to comply with the requirements of the Knox-Keene Health Care Service Plan Act of 1975, and the rules of the Commissioner of Corporations promulgated thereunder. The Director of Mental Health, in consultation with the Commissioner of Corporations, shall analyze the appropriateness of licensure or application of applicable standards of the Knox-Keene Health Care Service Plan Act of 1975.

(g) The department, pursuant to an agreement with the State Department of Health Services, shall provide oversight to the mental health plans to ensure quality, access, and cost efficiency. At a minimum, the department shall, through a method independent of any agency of the mental health plan contractor, monitor the level and quality of services provided, expenditures pursuant to the contract, and conformity with federal and state law.

(h) County employees implementing or administering a managed mental health care plan act in a discretionary capacity when they determine whether or not to admit a person for care or to provide any level of care pursuant to this part.

(i) If a county chooses to discontinue operations as the local mental health plan, the new plan shall give reasonable consideration to affiliation with nonprofit community mental health agencies that were under contract with the county and that meet the mental health plan's quality and cost efficiency standards.

(j) Nothing in this part shall be construed to modify, alter, or increase the obligations of counties as otherwise limited and defined in Chapter 3 (commencing with Section 5700) of Part 2. The county's maximum obligation for services to persons not eligible for Medi-Cal shall be no more than the amount of funds remaining in the mental health subaccount pursuant to Sections 17600, 17601, 17604, 17605, 17606, and 17609 after fulfilling the Medi-Cal contract obligations.

(Added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994. Conditionally inoperative as prescribed by Section 5780.)

5778. (a) This section shall be limited to mental health services reimbursed through a fee-for-service payment system.

(b) During the initial phases of the implementation of this part, as determined by the department, the mental health plan contractor and subcontractors shall submit claims under the Medi-Cal program for eligible services on a fee-for-service basis.

(c) A qualifying county may elect, with the approval of the department, to operate under the requirements of a capitated, integrated service system field test pursuant to Section 5719.5 rather than this part, in the event the requirements of the two programs conflict. A county that elects to operate under that section shall comply with all other provisions of this part that do not conflict with that section.

(d) (1) No sooner than October 1, 1994, state matching funds for Medi-Cal fee-for-service acute psychiatric inpatient services, and associated administrative days, shall be transferred to the department. No later than July 1, 1996, upon agreement between the department and the State Department of Health Services, state matching funds for the remaining Medi-Cal fee-for-service mental health services and the state matching funds associated with field test counties under Section 5719.5 shall be transferred to the department.

(2) The State Department of Mental Health, in consultation with the State Department of Health Services, a statewide organization representing counties, and a statewide organization representing health maintenance organizations shall develop a timeline for the transfer of funding and responsibility for fee-for-service mental health services from Medi-Cal managed care plans to local mental health plans. In developing the timeline, the department shall develop screening, referral, and coordination guidelines to be used by Medi-Cal managed care plans and local mental health plans.

(e) The department shall allocate the contracted amount at the beginning of the contract period to the mental health plan. The allocated funds shall be considered to be funds of the plan that may be held by the department. The department shall develop a methodology to ensure that these funds are held as the property of the plan and shall not be reallocated by the department or other entity of state government for other purposes.

(f) Beginning in the fiscal year following the transfer of funds from the State Department of Health Services, the state matching funds for Medi-Cal mental health services shall be included in the annual budget for the State Department of Mental Health. The amount included shall be based on historical cost, adjusted for changes in the number of Medi-Cal beneficiaries and other relevant factors.

(g) Initially, the mental health plans shall use the fiscal intermediary of the Medi-Cal program of the State Department of Health Services for the processing of claims for inpatient psychiatric hospital services and may be required to use that fiscal intermediary for the remaining mental health services. The providers for other Short-Doyle Medi-Cal services shall not be initially required to use

the fiscal intermediary but may be required to do so on a date to be determined by the department. The department and its mental health plans shall be responsible for the initial incremental increased matching costs of the fiscal intermediary for claims processing and information retrieval associated with the operation of the services funded by the transferred funds.

(h) The mental health plans, subcontractors, and providers of mental health services shall be liable for all federal audit exceptions or disallowances based on their conduct or determinations. The mental health plan contractors shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department and the State Department of Health Services shall work jointly with mental health plans in initiating any necessary appeals. The State Department of Health Services may offset the amount of any federal disallowance or audit exception against subsequent claims from the mental health plan or subcontractor. This offset may be done at any time, after the audit exception or disallowance has been withheld from the federal financial participation claim made by the State Department of Health Services. The maximum amount that may be withheld shall be 25 percent of each payment to the plan or subcontractor.

(i) The mental health plans shall have sufficient funds on deposit with the department as the matching funds necessary for federal financial participation to ensure timely payment of claims for acute psychiatric inpatient services and associated administrative days. The department and the State Department of Health Services, in consultation with a statewide organization representing counties, shall establish a mechanism to facilitate timely availability of those funds. Any funds held by the state on behalf of a plan shall be deposited in a mental health managed care deposit fund and shall accrue interest to the plan. The department shall exercise any necessary funding procedures pursuant to Section 12419.5 of the Government Code and Sections 8776.6 and 8790.8 of the State Administrative Manual regarding county claim submission and payment.

(j) (1) The goal for funding of the future capitated system shall be to develop statewide rates for beneficiary, by aid category and with regional price differentiation, within a reasonable time period. The formula for distributing the state matching funds transferred to the State Department of Mental Health for acute inpatient psychiatric services to the participating counties shall be based on the following principles:

(A) Medi-Cal state General Fund matching dollars shall be distributed to counties based on historic Medi-Cal acute inpatient psychiatric costs for the county's beneficiaries and on the number of persons eligible for Medi-Cal in that county.

(B) All counties shall receive a baseline based on historic and projected expenditures up to October 1, 1994.

(C) Projected inpatient growth for the period October 1,

1994, to June 30, 1995, inclusive, shall be distributed to counties below the statewide average per eligible person on a proportional basis. The average shall be determined by the relative standing of the aggregate of each county's expenditures of mental health Medi-Cal dollars per beneficiary. Total Medi-Cal dollars shall include both fee-for-service Medi-Cal and Short-Doyle Medi-Cal dollars for both acute inpatient psychiatric services, outpatient mental health services, and psychiatric nursing facility services, both in facilities that are not designated as institutions for mental disease and for beneficiaries who are under 22 years of age and beneficiaries who are over 64 years of age in facilities that are designated as institutions for mental disease.

(D) There shall be funds set aside for a self-insurance risk pool for small counties. For purposes of this subdivision, "small counties" means counties with less than 200,000 population.

(2) The allocation method for state funds transferred for acute inpatient psychiatric services shall be as follows:

(A) For the 1994-95 fiscal year, an amount equal to 0.6965 percent of the total shall be transferred to a fund established by small counties. This fund shall be used to reimburse mental health plans in small counties for the cost of acute inpatient psychiatric services in excess of the funding provided to the mental health plan for risk reinsurance, acute inpatient psychiatric services and associated administrative days, or for costs associated with the administration of these moneys. The methodology for use of these moneys shall be determined by the small counties, through a statewide organization representing counties, in consultation with the State Department of Mental Health.

(B) The balance of the transfer amount for the 1994-95 fiscal year shall be allocated to counties based on the following formula:

County	Percentage
Alameda	3.5991
Alpine	.0050
Amador	.0490
Butte	.8724
Calaveras	.0683
Colusa	.0294
Contra Costa	1.5544
Del Norte	.1359
El Dorado	.2272
Fresno	2.5612
Glenn	.0597
Humboldt	.1987
Imperial	.6269
Inyo	.0802
Kern	2.6309
Kings	.4371

Lake	.2955
Lassen	.1236
Los Angeles	31.3239
Madera	.3882
Marin	1.0290
Mariposa	.0501
Mendocino	.3038
Merced	.5077
Modoc	.0176
Mono	.0096
Monterey	.7351
Napa	.2909
Nevada	.1489
Orange	8.0627
Placer	.2366
Plumas	.0491
Riverside	4.4955
Sacramento	3.3506
San Benito	.1171
San Bernardino	6.4790
San Diego	12.3128
San Francisco	3.5473
San Joaquin	1.4813
San Luis Obispo	.2660
San Mateo	.0000
Santa Barbara	.0000
Santa Clara	1.9284
Santa Cruz	1.7571
Shasta	.3997
Sierra	.0105
Siskiyou	.1695
Solano	.0000
Sonoma	.5766
Stanislaus	1.7855
Sutter/Yuba	.7980
Tehama	.1842
Trinity	.0271
Tulare	2.1314
Tuolumne	.2646
Ventura	.8058
Yolo	.4043

(k) The allocation method for the state funds transferred for subsequent years for acute inpatient psychiatric and other mental health services shall be determined by the State Department of Mental Health in consultation with a statewide organization representing counties.

(l) The allocation methodologies described in this section

shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis. When federal funds are capitated, the State Department of Mental Health, in consultation with a statewide organization representing counties, shall determine the methodology for capitation consistent with federal requirements.

(m) The formula that specifies the amount of state matching funds transferred for the remaining Medi-Cal fee-for-service mental health services shall be determined by the department in consultation with a statewide organization representing counties. This formula shall only be in effect while federal financial participation is received on a fee-for-service reimbursement basis.

(n) Upon the transfer of funds from the budget of the State Department of Health Services to the department pursuant to subdivision (d), the department shall assume the applicable program oversight authority formerly provided by the State Department of Health Services, including, but not limited to, the oversight of utilization controls as specified in Section 14133. The mental health plan shall include a requirement in any subcontracts that all inpatient subcontractors maintain necessary licensing and certification. Mental health plans shall require that services delivered by licensed staff are within their scope of practice. Nothing in this part shall prohibit the mental health plans from establishing standards that are in addition to the minimum federal and state requirements, provided that these standards do not violate federal and state Medi-Cal requirements and guidelines.

(o) Subject to federal approval and consistent with state requirements, the mental health plan may negotiate rates with providers of mental health services.

(p) Under the fee-for-service payment system, any excess in the payment set forth in the contract over the expenditures for services by the plan shall be spent for the provision of mental health services and related administrative costs.

(q) Nothing in this part shall limit the mental health plan from being reimbursed appropriate federal financial participation for any qualified services even if the total expenditures for service exceeds the contract amount with the Department of Mental Health. Matching nonfederal public funds shall be provided by the plan for the federal financial participation matching requirement.

(Added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994. Conditionally inoperative as prescribed by Section 5780.)

5779. (a) This section shall be limited to mental health services reimbursed through a capitated rate payment system.

(b) Upon mutual agreement, the department and the State Department of Health Services may combine the funds transferred under this part, other funds available pursuant to Chapter 5 (commencing with Section 17600) of Part 5 of Division 9, and federal financial

participation funds to establish a contract for the delivery of mental health services to Medi-Cal beneficiaries under a capitated rate payment system. The combining of funds shall be done in consultation with a statewide organization representing counties. The combined funding shall be the budget responsibility of the department.

(c) The department, in consultation with a statewide organization representing counties, shall establish a methodology for a capitated rate payment system that is consistent with federal requirements.

(d) Capitated rate payments shall be made on a schedule specified in the contract with the mental health plan.

(e) The department may levy any necessary fines and audit disallowances to mental health plans relative to operations under this part. The mental health plans shall be liable for all federal audit exceptions or disallowances based on the plan's conduct or determinations. The mental health plan shall not be liable for federal audit exceptions or disallowances based on the state's conduct or determinations. The department shall work jointly with the mental health plan in initiating any necessary appeals. The department may offset the amount of any federal disallowance or audit exception against subsequent payment to the mental health plan at any time. The maximum amount that may be withheld shall be 25 percent of each payment to the mental health plan.

(Added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994. Conditionally inoperative as prescribed by Section 5780.)

5780. (a) This part shall only be implemented to the extent that the necessary federal waivers are obtained. The director shall execute a declaration, to be retained by the director, that a waiver necessary to implement any provision of this part has been obtained.

(b) This part shall become inoperative on the date that, and only if, the director executes a declaration, to be retained by the director, that more than 10 percent of all counties fail to become mental health plan contractors, and no acceptable alternative contractors are available, or if more than 10 percent of all funds allocated for Medi-Cal mental health services must be administered by the department because no acceptable plan is available.

(Added by Stats. 1994, Ch. 633, Sec. 1.5. Effective September 20, 1994.)

PART 3. MENTAL HEALTH SERVICES ACT FOR SERIOUSLY MENTALLY DISORDERED ADULTS

(Part 3 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 1. A COUNTY INTERAGENCY SYSTEM FOR SERIOUSLY MENTALLY DISORDERED ADULTS

(Chapter 1 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 1. Short Title and Legislative Findings and Intent

(Article 1 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5800. This part shall be known and may be cited as the Wright, McCorquodale, and Bronzan Act of 1988.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5800.5. (a) The Legislature finds that there is no comprehensive county interagency system for the delivery of mental health services to seriously mentally disordered adults and older adults, hereafter referred to as seniors. Specifically:

(1) The adult and senior population which should receive the highest priority for services has not been defined.

(2) The minimum range of treatment, case management, and community support services required by the seriously mentally disordered has not been identified or established.

(3) Service delivery standards which ensure uniform, appropriate care directed specifically to the needs of seriously mentally disordered adults and seniors and their families, including ethnic minorities and persons with multiple disabilities, have not been specified and required.

(4) Although seriously mentally disordered adults and seniors usually have multiple disabilities, the many different state and county public agencies with responsibilities for these individuals do not always collaborate to jointly develop integrated and cost-effective programs.

(5) The current mental health system lacks accountability. There are neither methods nor criteria for evaluating the value received for the mental health dollar the Legislature invests. The success of treatment for specific clients over the course of their illness and the cost effectiveness of mental health systems are not regularly monitored and reported.

(b) The Legislature further finds that Ventura County has implemented a model system of care for children and youth pursuant to the Children's Mental Health Services Act (Chapter 6.8 (commencing

with Section 5565.10) of Part 1) hereafter referred to as the Ventura Model, which can be expanded to serve seriously mentally disordered adults and seniors.

(c) Therefore, using the Ventura Model guidelines, it is the intent of the Legislature to accomplish the following:

(1) Establish at least one county demonstration project to develop a comprehensive county interagency system for the delivery of mental health services to seriously mentally disordered adults and seniors that can be replicated in other counties.

(2) Establish a mission statement for county interagency systems of care for seriously mentally disordered adults and seniors in the proposed demonstration projects, including a philosophy of service delivery, to guide the development of mental health programs and services.

(3) Define and establish target populations of seriously mentally disordered adults and seniors for the proposed demonstration projects pursuant to subdivisions (a) to (e), inclusive, of Section 5831.

(4) Require that 100 percent of new funds appropriated for demonstration project counties shall be dedicated to the target population as defined in subdivisions (a) to (e), inclusive, of Section 5831. Nothing in this chapter shall be construed to reduce funds available for mental health services to children and youth.

(5) Determine the client and cost outcome and interagency collaboration benefits that can be expected if the Ventura Model system of care were implemented statewide.

(6) Begin phasing in the county interagency system of care statewide during or by the end of the demonstration project, contingent on the finding of substantial benefit to seriously mentally disordered adults and seniors, effective cost control and accountability for the use of funds.

(Amended by Stats. 1989, Ch. 75, Sec. 1.5. Effective June 30, 1989.)

Article 2. Establishing Demonstration Counties and Their Mission

(Article 2 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5801. (a) The State Department of Mental Health shall contract with one or more counties for at least one, but not more than three, county demonstration projects to develop and implement the model adult and senior county interagency mental health service system beginning July 1, 1989, and ending December 31, 1996.

(b) The State Department of Mental Health shall adopt as part of its overall mission for the proposed demonstration projects the development of community-based, county interagency systems of

mental health care for seriously mentally disordered adults and seniors that result in the highest benefit to the client, family, and community while ensuring that the public sector meets its legal responsibility and fiscal liability at the lowest possible cost. The underlying philosophy for these systems of care includes the following:

(1) Mental health care is a basic human service, no less so than food and shelter programs, adult protective services, medical care, education, or vocational training.

(2) Seriously mentally disordered adults and seniors are citizens of a community with all the rights, privileges, opportunities, and responsibilities accorded other citizens.

(3) Seriously mentally disordered adults and seniors usually have multiple disorders and disabling conditions and should have the highest priority for mental health services.

(4) Seriously mentally disordered adults and seniors should have an interagency network of services with multiple points of access and be assigned a single person or team to be responsible for all treatment, case management, and community support services.

(5) The client should be fully informed and volunteer for all treatment provided, unless danger to self or others or grave disability requires temporary involuntary treatment.

(6) Clients and families should directly participate in making decisions about services and resource allocations that affect their lives.

(7) People in local communities are the most knowledgeable regarding their particular environments, issues, service gaps and strengths, and opportunities.

(8) State and county government agencies each have responsibilities and fiscal liabilities for seriously mentally disordered adults and seniors.

(9) Mental health services should be responsive to the unique needs, among the seriously mentally disordered, of minority and ethnic groups, elderly persons, and people with multiple disorders.

(10) For the majority of seriously mentally disordered adults and seniors, treatment is best provided in the client's natural setting in the community. Treatment, case management, and community support services should be designed to prevent inappropriate removal from the natural environment to more restrictive and costly placements.

(11) Mental health systems of care shall have measurable goals and be fully accountable by providing measures of client outcomes and cost of services.

(c) Notwithstanding subdivision (a), if the Director of Mental Health determines prior to June 30, 1993, that a project is unsuccessful pursuant to the client and cost outcomes specified in Section 5834, the department may terminate the contract as of that date.

(Amended by Stats. 1994, Ch. 1096, Sec. 2. Effective September 29, 1994.)

Article 3. Demonstration County Selection and Target Population

(Article 3 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5802. (a) The State Department of Mental Health shall issue a request for proposals to develop the demonstration projects no later than February 1, 1989. Contracts for county demonstration projects shall be awarded no later than June 1, 1989. Nothing in this part shall be construed to restrict a demonstration county from contracting for part or all services included in the demonstration project proposal. The request for proposals shall include the following specifications:

(1) Proposals may be submitted as a regional system of care by smaller counties acting jointly, independent countywide proposals, and proposals to serve discrete geographic areas within counties. The department shall establish reporting requirements for direct and indirect administrative overhead. Guidelines for reporting administrative charges shall be included in the request for proposals. Weight shall be given to counties with lower administrative overhead costs but in no case shall administrative costs exceed those of existing county mental health programs and services.

(2) The demonstration projects shall identify all members of the target population as defined in subdivisions (a) to (e), inclusive, of Section 5831, in their respective region, county, or service area. The proposal shall identify the number of target population clients to be served through the demonstration project. Weight shall also be given to applicant counties to the extent that resources from county agencies other than the mental health department are used to develop interagency services for the target population during the demonstration period.

(3) Proposals shall identify county staff and resources necessary to meet requirements established by the State Department of Mental Health to measure client and cost outcome and interagency collaboration for the system of care.

(b) Proposals must be approved by the board of supervisors and the local mental health advisory board.

(c) Upon selection of the demonstration counties, the State Department of Mental Health shall enter into annual performance contracts with the selected counties. The contracts required pursuant to this chapter, and pursuant to Chapters 2 (commencing with Section 5808) and 5 (commencing with Section 5833), shall be exempt from the

requirements of the Public Contract Code and the State Administrative Manual and shall be exempt from approval by the Department of General Services.

(Amended by Stats. 1991, Ch. 611, Sec. 70. Effective October 7, 1991.)

Article 4. Demonstration County Service Requirements

(Article 4 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5803. The State Department of Mental Health shall require demonstration counties to use available resources for the target population to develop the following services, including, but not limited to:

(a) Mental health treatment services, including, but not limited to:

(1) Comprehensive assessment of mental and physical conditions which identify strengths and assets, impairments in functioning and psychosocial stressors.

(2) Medication management including strategies to maximize the client's cooperation with the medication plan.

(3) 24-hour crisis response services including, but not limited to, hotline, walk-in and mobile crisis response capability, crisis residential and acute inpatient beds, day stabilization, and brief intensive psychotherapy.

(4) In-home treatment services and services provided in other agency environments. This includes, but is not limited to, jails and homeless shelter programs.

(5) Treatment services for persons with a dual diagnosis where the serious mental disorder is the primary treatment focus including, but not limited to, services for persons with a secondary diagnosis of drug and alcohol abuse, and jail diversion programs for offenders.

(6) Outreach services when necessary to ensure that services are provided to members of the target population who may be difficult to treat including ethnic minorities, seniors, and persons with multiple disabilities.

(b) Case management services including:

(1) An identified, single point of contact with responsibility for all services, including mobile outreach, that is available 24 hours each day.

(2) Transportation to essential services.

(3) Consultation to individuals and agencies in frequent contact with the client with the intent of maintaining clients in appropriate residential and working arrangements, including family, employers, landlords, police, hospitals, and significant others.

(4) Ascertainment of eligibility and provision of access to income support and entitlements, housing, food, medical, and dental care, vocational services, educational services, community recreational services, legal assistance, and veterans benefits.

(5) Money management as substitute or protective payee.

(c) Community support services including:

(1) Socialization services or drop-in centers.

(2) Family consultation and support services including respite care, education on the nature of the disorder, medications, handling daily problems and crises, identification and reduction of stress, and linkage to regional resource centers, other family support services and advocacy organizations.

(3) Peer support or self-help groups.

(4) Consultations to agencies and individuals in frequent contact with groups of clients with the intent of developing and maintaining a system of care including, but not limited to, housing resources, employers, community and public agencies, and local businesses.

(5) A full range of residential options from supported independent living through restrictive, supervised settings. In-home support must be available. Demonstration counties shall plan the most effective residential system given the local resources and problems.

(d) Rehabilitative services including:

(1) Social rehabilitative programs that provide assessment of impairments and strengths, and training to develop skills of daily living, money management, personal hygiene, use of public transportation, social skills, and others.

(2) Vocational rehabilitative services that provide functional assessment of the person's skills, collaborative arrangements with educational and vocational rehabilitation agencies to perform vocational assessments, job readiness skill development, sheltered employment, supported work and on-the-job training opportunities, and evaluation of achievement of goals and skills.

(e) Protection and advocacy services including patient rights services, grievance procedures, and coordination with other existing advocacy services for seniors such as the ombudsman program for seniors.

(Amended by Stats. 1989, Ch. 75, Sec. 4. Effective June 30, 1989.)

Article 5. Demonstration County Service Standards

(Article 5 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5804. The State Department of Mental Health shall establish service standards that assure members of the target population are identified and can choose, get, and keep environments where they can live, learn, and work. These standards include, but

are not limited to:

(a) A systemwide county, region, or area service planning process that is target population based and includes the following:

(1) Estimates of the numbers of clients to be served and the programs and services that will be provided to meet their needs. The local director of mental health shall consult with the Mental Health Advisory Board, contractors, the local chapter of the Alliance for the Mentally Ill, client constituency groups, ethnic minority constituency, and others as determined by the director to help identify all of the persons in the target populations and determine their needs.

(2) Plans for services including outreach for identification, to meet the cultural, linguistic, and special needs of minorities in the target populations. Provision shall also be made for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services due to a limited-English speaking ability and cultural differences.

(3) Provision for services to meet the needs of target population clients who are physically disabled.

(4) Provision for services to meet the special needs of seniors, including problems arising from the increased interaction of physical and mental disorders, the need for accurate assessment of the role of brain impairment in psychiatric disorders being treated, and other specialized services.

(5) Provision for methods and procedures to identify underserved members of the target population.

(6) Provision, pursuant to paragraphs (2) and (3) of subdivision (c) of Section 5803, for family support and consultation services within three days of a client's admission to psychiatric inpatient treatment for the first psychotic "break," and requirements for assignment of a case manager and referral to a peer support or self-help group prior to discharge.

(b) The average caseload for each case management staff person shall not exceed 25 members.

(c) Each client shall have either a clearly designated mental health case manager or a multidisciplinary treatment team who is responsible for providing or assuring needed services through the course of the illness. Responsibilities include complete assessment of the client's case management needs, development of the client's Personal Services Plan (PSP) and following the client through the system of care, including when in the care or custody of another agency such as the jail or when hospitalized. If the person is admitted to crisis or acute inpatient care the responsible mental health staff shall be notified and included in planning for the member's treatment, discharge, and community reentry.

(d) The responsible case manager or the treatment team shall ensure that each client has a single, systemwide personal services plan that provides for the services in subdivisions (a) to

(e), inclusive, of Section 5803 specifying methods to be used. Each client shall participate in the development of his or her personal services plan, and responsible staff shall consult with the conservator and, with the consent of the client, consult with the family and other significant persons in the development of the personal services plan. The personal services plan shall be directed at the goals of assuring that clients:

(1) Have a reduction, to the extent possible, of the disabling symptoms of mental illness.

(2) Live in the most normal housing feasible in the local community.

(3) Have an adequate income and an appropriate level of work or vocational training.

(4) Are in good health.

(5) Have a support system, with friendships and participation in community activities.

(6) Have freedom from dangerous, addictive substances.

(7) Maintain socially responsible behavior.

(8) Obtain an appropriate level of education and learning.

(9) Receive culturally appropriate services.

(10) For members who reside with their family, the PSP should provide for respite care which is designed to give the family needed relief from difficult behavior and decrease the duration of the hospital stay.

(Amended by Stats. 1989, Ch. 75, Sec. 5. Effective June 30, 1989.)

Article 6. Demonstration County Interagency Collaboration

(Article 6 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5805. The State Department of Mental Health shall require demonstration counties to develop systems of interagency collaboration which identify joint responsibilities for services specified in Section 5803 and achievement of the client and cost outcome goals and interagency collaboration goals pursuant to Section 5834. Each demonstration county shall accomplish the following:

(a) The local mental health director shall form or facilitate the formation of a county interagency policy and planning committee. Members may include directors or key policymaking staff from the local mental health department, the local mental health advisory board, and other agencies such as social services, the sheriff's department, superior court, county alcohol and drug programs, probation services, local, state, and county housing authorities, and other state and county agencies whose service policies will significantly affect members. The duties of the

committee shall include, but not be limited to:

(1) Identification of those agencies that have a significant joint responsiblity for the target population and ensuring collaboration on countywide planning and policy.

(2) Identification of gaps in services to members of the target population, development of policies to assure service effectiveness and continuity, and setting priorities for interagency services.

(3) Implementation of public and private collaborative programs whenever possible to better serve the target population.

(4) Provision of a countywide interagency case management council to coordinate resources to target population members who are using the services of more than one agency concurrently.

(b) The local mental health director shall develop written interagency agreements or memoranda of understanding with agencies identified in paragraph (a). Written interagency agreements or memoranda shall specify jointly provided or integrated services, staff tasks and responsibilities, facility and supply commitments, budget considerations, and linkage and referral services. The agreements shall be reviewed and updated annually. Agreements may be established with the following:

(1) Housing resource agencies, including federal Housing and Urban Development Agency, city and county planning departments with access to housing and community development funds, and local chapters of residential care provider organizations.

(2) Health and entitlement agencies including public sector agencies administering health funds for medically indigent adults and Medi-Cal eligibility services, public health departments, county drug and alcohol departments, public guardian or conservator, county welfare departments, elder abuse agencies, senior nutrition, health and home health care programs, and aging network representatives, including the area agency on aging.

(3) Educational institutions and agencies such as special education, adult education programs, community colleges, colleges and universities, city and county recreation and parks departments, and senior multipurpose service centers.

(4) Rehabilitation programs and agencies such as the Department of Rehabilitation, Private Industry Council, Job Training Partnership Act programs, and regional resource centers for the brain-impaired.

(5) Criminal justice agencies such as county jails, local police and sheriff departments, courts, and probation.

(6) Ethnic specific agencies.

(c) Joint resources and services not specified in the interagency agreements but needed by the target population shall be purchased from other public, private nonprofit, or private agencies.

(Amended by Stats. 1989, Ch. 75, Sec. 6. Effective June 30, 1989.)

Article 7. State Interagency Collaboration
(Article 7 added by Stats. 1988, Ch. 982, Sec. 1.
Effective September 20, 1988.)

5806. The Secretary of Health and Welfare shall establish a State Human Services Interagency Task Force to coordinate statewide policy and planning of county interagency services for the members of the target population.

(a) The task force shall include representatives of the state departments which have responsibility for meeting the needs of the target population. The task force shall also include representatives from the Assembly Health Committee, the Assembly Ways and Means Committee, the Senate Health and Human Services Committee, the Senate Appropriations Committee, and other appropriate persons, as determined by the secretary.

(b) The duties of the task force include, but are not limited to, the following:

(1) Ensuring the collaboration of state level human services agencies to meet the needs of the target population.

(2) Developing interagency agreements as necessary to facilitate collaboration among state and local agencies, including the sharing of data and information on the target population.

(3) Ensuring ongoing communication between the executive and legislative branches of government relative to meeting the needs of the target population.

(Amended by Stats. 1989, Ch. 75, Sec. 7. Effective June 30, 1989.)

Article 8. Requirement to Collect Reimbursements
(Article 8 added by Stats. 1988, Ch. 982, Sec. 1.
Effective September 20, 1988.)

5807. In order to offset the cost of services, demonstration counties shall be required to collect reimbursement for services during the demonstration period from the following sources:

(a) Fees paid by members or their families, which shall be the same as patient fees established pursuant to Section 5718.

(b) Fees paid by private or public third-party payors.

(c) Categorical funds from programs established in state or federal law, for which persons with serious mental disorders are eligible.

(d) The department shall immediately seek to obtain authorizations which may be required to obtain federal financial

participation for services rendered through demonstration counties.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 2. AN INTEGRATED SERVICE SYSTEM FOR THE SERIOUSLY MENTALLY DISORDERED

(Chapter 2 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 1. Legislative Findings and Intent

(Article 1 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5808. The Legislature finds that in the two decades since enactment of the Lanterman-Petris-Short Act utilization of state hospitals has been substantially reduced. However, the intended transition to a locally operated effective comprehensive system of services for persons with severe mental disorders has not yet been achieved.

Studies by the Legislature and the Task Force for the Seriously Mentally Ill have documented fundamental defects in the organization and financing of programs for persons who prior to 1969 would have been committed to state hospitals, including the following:

(a) Responsibility and accountability for treatment, care, and rehabilitation is scattered among too many independent agencies, providers, and levels of government.

(b) Federal, state, and county funds are allocated to numerous autonomous agencies and cannot be readily consolidated or used in flexible ways to meet an individual's need. Clinical effectiveness is frustrated because professionals responsible for prescribing and giving treatment and rehabilitation have little or no authority to direct the allocation of resources.

(c) Few standards govern the service system. The mere existence of many different programs does not guarantee that persons with complex changing needs will receive continuity of attention and timely, useful services.

(d) Clients and their families have too few opportunities to participate in determining the treatment, care, and resource allocations that will affect their lives.

(e) The quality and availability of essential services varies greatly among the 58 counties.

(f) The mandated functions of county mental health departments have expanded without a practical plan for financing the growth of these multiple responsibilities. Resources have not

followed clients in the shift from state hospital to community-based responsibility for the seriously mentally disordered.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5809. (a) The purposes of this part are:

(1) To establish a pilot model to test and evaluate an integrated service system for a limited number of persons with serious mental disorders.

(2) To provide the State Department of Mental Health with an evaluation of proposed standards for the organization and financing of community services for the seriously mentally disordered and for redirecting expenditures pursuant to the Short-Doyle Act (Part 2 (commencing with Section 5600)) if necessary to improve standards of service provided by counties, as authorized in Sections 5600.5 and 5600.6.

(3) To provide counties with information about alternative ways of organizing and allocating resources for services for the seriously mentally disordered.

(4) To provide the federal government with an opportunity to test a new method of consolidating the funding of federal, categorical human service programs.

(b) The pilot integrated service system established by this part is based upon features found in exemplary human service delivery systems in California and other states.

It is the intent of the Legislature that by this part California may evaluate proposed new methods of organizing and financing services for the seriously mentally disordered which may, over the next decade, result in cost-effective system of comprehensive services, responsive to the needs of the seriously mentally disordered and their families, in every part of the state.

It is the intent of the Legislature that a pilot agency maintain a continuity of services and financial responsibility for their members.

(Amended by Stats. 1989, Ch. 75, Sec. 8. Effective June 30, 1989.)

Article 2. Establishing Pilot Agencies

(Article 2 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5810. (a) The State Department of Mental Health shall establish at least two, but not more than six, pilot integrated service agencies for the seriously mentally disordered beginning July 1, 1989, and ending December 31, 1996, hereafter referred to in this part as pilot agencies.

(b) Notwithstanding subdivision (a), if the Director of Mental Health determines prior to June 30, 1993, that a project is unsuccessful pursuant to the client and cost outcomes specified in Section 5834, the department may terminate the agency as of that date. If one or more of the projects continues beyond June 30, 1993, the director may continue the independent evaluation of client and cost outcomes of these projects.

(Amended by Stats. 1994, Ch. 1096, Sec. 3. Effective September 29, 1994.)

Article 3. Pilot Agency Selection and Funding Policy

(Article 3 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5811. (a) No later than February 1, 1989, the director, with advice from the advisory committee established pursuant to Section 5832, shall prepare, publish, and disseminate a request for proposals for four-year contracts to operate pilot agencies. The panel of advisers shall participate in the review of proposals and shall advise the director prior to his or her selection of contractors to operate four-year pilot agencies. Pilot agency performance contracts shall be awarded no later than June 1, 1989.

(b) The director shall prepare a method for rating proposals to assure objectivity and selection of the best qualified applicants.

(c) It is the intent of the Legislature that pilot agencies be used to test and evaluate different methods within the limitations established by this chapter. It is further the intent of the Legislature that pilot agencies be selected in different regions of the state. At least one pilot agency shall be established in a rural region.

(d) When selecting from among proposals of equal merit, preference shall be given to proposals emanating from counties that receive lower per capita state support for mental health services.

(e) There shall be no requirement for the redirection of county funds to support pilot agency activities. Weight shall be given to proposals which document host county's willingness to provide resources in support of pilot agencies. It is intended that the provision of host county resources to the pilot agency not diminish services to the county mentally disordered population not served by the pilot agency.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5812. (a) Any public or private agency, organization, or corporation, including a county, may respond to the request for

proposals and be considered as a contractor to operate a pilot agency. Two or more counties, agencies, organizations, or corporations may respond jointly. A pilot agency or its satellite shall be located within a reasonable distance to its members.

(b) The director shall award contracts effective July 1, 1989, to implement the pilot agencies. Each contract shall ensure that the number of persons in the pilot agencies remain constant and that the population served meets the criteria established in this part. No pilot agency shall serve more than 200 clients or fewer than 100 clients.

(c) (1) Contracts entered into pursuant to this part shall start July 1, 1989, and end December 31, 1996.

(2) Notwithstanding paragraph (1), if the Director of Mental Health determines prior to June 30, 1993, that a project is unsuccessful, the department may terminate the contract as of that date.

(Amended by Stats. 1994, Ch. 1096, Sec. 4. Effective September 29, 1994.)

Article 4. Policy Committee

(Article 4 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5813. (a) Agencies other than county mental health departments applying to operate a pilot agency shall include in their proposals a statement of agreement to establish an integrated service policy committee, consisting of 15 members, with no other functions than to assist the governing board of the applicant agency in setting policies and overseeing the operation of the pilot agencies. County mental health department applicants may delegate these functions to county mental health advisory boards established pursuant to Section 5604.

(b) The integrated service policy committee shall consist of persons with demonstrated interest in and knowledge of serious mental disorders, shall reflect the ethnic characteristics of members to be served, and shall not have a financial conflict of interest as a result of membership on the policy committee, except as consumers of services of the pilot agency. When selecting persons to serve on the committee, the governing board of the applicant agency shall seek recommendations from appropriate professional and consumer organizations in the community in which the pilot agency is to be located.

(c) One-third of the members of the committee shall be persons who are receiving services from the pilot agencies or persons who have experienced serious mental disorders, as defined in subdivisions (a) to (d), inclusive, of Section 5831.

One-third of the members of the policy committee shall be persons whose children, spouses, siblings, or parents are receiving services from the pilot agencies or persons whose family members have or have had a serious mental disorder, but are not receiving services from the pilot agencies.

One-third shall be persons with demonstrated expertise in management or the provision of services for persons with severe mental disorders.

(d) The policy committee shall participate in making decisions, including, but not limited to, establishing program policies and minimum personnel qualifications, monitoring expenditures, participating in grievance procedures, and evaluating agency operations. Final authority and responsibility for decisions which affect operation of the pilot service agency remains with the governing board.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 5. County Letter of Understanding

(Article 5 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5814. In order to assure cooperation with county governments in communities in which pilot agencies are established, applications shall be approved by the local mental health advisory board and applicants shall include in their proposal to operate a pilot agency, a letter signed by the chairperson of the county board of supervisors as follows:

To the Director of the California State Department of Mental Health, from the County of ____.

After consultation with the Director of Mental Health this county affirmatively approves the establishment within the county of a pilot integrated service agency for the seriously mentally disordered. Be it understood that by this statement our board of supervisors is not endorsing any particular proposal which may emanate from this county in response to the state's request for competitive proposals to operate a pilot integrated service agency for the seriously mentally disordered.

We understand that if a pilot agency is established within this county, there will be no required county match, redirection of existing mental health resources, or other costs to the county now or in the future for the pilot agency.

We further understand that establishment of a pilot agency within our county would be an expansion of services for the mentally disordered and is not intended to supplant or result in any reduction in the county's support for other services for the mentally

disordered.
Signed:

_____

Chairperson, Board of Supervisors
(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 6. Responsibilities and Service Requirements
(Article 6 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5815. In addition to other requirements as may be included in the department's request for proposals, pilot agencies shall have the following responsibilities and perform the following functions:

(a) Serve a specified number and representative mix of persons, hereafter referred to in this chapter as "members," as further defined in subdivisions (a) to (d), inclusive, of Section 5831.

(b) Prepare a personal service plan, on an annual basis, with the participation of all of the following:

(1) The member and the member's conservator or guardian, as appropriate.

(2) Members of the staff team, as defined in subdivision (a) of Section 5816.

(3) Family members who know the member, if agreed to by the member.

(4) Any person of the member's choosing. The personal services plan shall include goals, specific objectives, and the strategies and services needed to achieve goals and objectives. The personal services plan shall include an assessment of the member's strengths, capabilities, and interests. The personal service plan is a service contract between the member and the agency. The member, or the member's legally designated conservator or guardian on behalf of the member, shall agree by signature to each service element of the plan. There shall be mutual agreement to each and every element of the plan. Acceptance of one service shall not be contingent upon acceptance of another service. Personal service plans may be modified by agreement between the agency and the member, or his or her conservator or guardian on behalf of the member, at any time as required.

(c) Maintain records as may be required by the department regarding each member's social health and mental health needs, services provided, and costs of services. Records shall be available to the member for review and comment, except for records state or federal law may require to be kept confidential.

(d) Ascertain the member's eligibility for all health,

mental health, housing, rehabilitation, social service, income maintenance, and other publicly funded services.

(e) Secure as needed, by providing directly or through purchase of services or other means, appropriate services as specified in the personal service plans of members, including, but not limited to:

(1) Diagnosis and assessment of mental and physical conditions.

(2) Treatment of mental disorders, including medication.

(3) Crisis response, which shall be available 24 hours a day, seven days a week.

(4) Self-help and peer support services.

(5) Emergency care.

(6) A continuum of residential services.

(7) Vocational assessment, supported employment, and other employment services.

(8) Socialization and recreation.

(9) Transportation for essential services.

(10) Daily living skills training.

(11) Information, counseling and other services for the parents, children, or other relatives of members.

(12) Respite for families and for members.

(13) Legal assistance and patients' rights services.

(14) Money management, including substitute payee services.

(15) Consultation with landlords and employers.

(16) Hospitalization in community or state hospitals.

(17) Drug and alcohol rehabilitation.

(18) Formal education including high school, college or vocational.

(19) Motivational activities to encourage educational, vocational, and community participation.

(20) Physical, nutritional, and dental health care.

(21) Income maintenance.

(f) Provide or purchase alternative services appropriate to the needs of the enrollee, only if the pilot agency is unable to provide or purchase any service as specified in the service plan, and only upon approval of the policy committee established pursuant to Section 5813.

(g) Maintain regular, personal contact with members, providing assistance whenever needed, in the home, on the streets, or in residential facilities, hospitals, or jails.

(h) Provide consultation to service providers to improve the quality of services for members; provide information to school personnel, police, judges, and community agencies and professionals to enable them to cooperate with and utilize the integrated service agency.

(i) Assist in creating new programs when necessary services are inadequate or unavailable, including services to ethnic

minorities.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 7. Request for Proposals Requirements

(Article 7 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5816. In addition to any other requirements which may be included in the department's request for proposals, proposals to operate a pilot agency shall include the following:

(a) A description of the staff team that will conduct the comprehensive services defined in Section 5815, the amount of time each staff person will devote to working for the pilot agency and the staffing arrangements that will assure compliance with the programmatic requirements of this part.

Persons employed or under contract to provide services pursuant to this part shall be subject to all applicable requirements of law respecting professional licensure, and no person shall be employed to provide services for which a license is required unless the person possesses a currently valid license.

Each staff team shall include, at a minimum, a psychiatrist, a psychologist, a social worker, and a registered nurse with the formal training and the practical experience to work effectively with clients with serious mental disorders.

The staff team may include unlicensed personnel to provide services for which licenses are not required.

To the fullest extent feasible members should be involved in self-help organized by members, peer support, and other activities in support of the purposes of the pilot agencies on a paid or an unpaid basis. Pilot agencies are encouraged to make the fullest possible use of all community resources, including, but not limited to, the use of volunteers to raise funds; provide technical assistance to member-operated businesses; or assist with the day-to-day operations of the agency.

Nothing in this part shall preclude members from retaining their own therapists consistent with Section 5815. The agency shall have the option of paying or not paying for the cost of any services secured independently by the client or the client's family, and shall make every effort to collaborate with the providers of these services to prevent duplicative or conflicting efforts.

(b) A plan for serving minority members. The plan should include estimates of the numbers of minority members to be served and the ways by which the agency intends to respond to the language and cultural needs of minority members. It is the intent of the Legislature that the membership of each agency approximate the racial

and ethnic mix of the general population of the community in which members of the agency reside.

(c) A plan for the provision of services described in Section 5815. The plan shall include methods to be used, including identification of services to be provided directly by the pilot agencies and those to be secured by contract or other means.

(d) If the applicant owns or operates a hospital or residential facility and intends to utilize the facility for purposes of the pilot agencies, the plan should identify the anticipated cost of this use and justify the cost effectiveness. The plan should also specify the conditions under which other hospital or residential facilities not owned or operated by the applicant will be used, and the anticipated amount of use.

(e) A plan describing the residential resources the applicant intends to use, ranging from crisis residential facilities to independent living arrangements. The plan for residential services should describe methods to be used to assure that members are assisted and supported to live as independently as possible, outside specialized institutions or facilities for the mentally disordered. For members who may require care in specialized institutions or residential facilities, the plan shall describe methods to be used to assure that these facilities shall be staffed with sufficient expertise to assist members in achieving the objectives in their personal service plans, and that the daily activities of the members shall be constructive, purposeful, productive, and consistent with their intellectual, cultural, and personal interest.

(f) The plan for residential services should also include provisions for offering consultation, technical assistance, and other support as needed, to the operators of residential services for members or their family caregivers.

(g) A plan for the provision of services for members who may require services on an involuntary basis under the provisions of the Lanterman-Petris-S hort Act, Part 1 (commencing with Section 5000).

The plan shall include agreements with hospitals from which pilot agencies purchase hospital services. Payment for hospital services shall be an obligation of the pilot agency if a member is hospitalized involuntarily, regardless of the existence of a payment agreement.

All of the following persons shall participate in determining the treatment and discharge of members placed voluntarily or involuntarily in local or state hospitals:

(1) The director of the pilot agency or his or her designee.

(2) The member or the member's conservator or guardian, if any.

(3) The attending staff responsible for treatment of the member within the local or state hospital.

(h) A plan for services to members admitted to the pilot service agency following a first psychotic "break." The plan shall include the provision of family information and counseling services pursuant to paragraph (11) of subdivision (c) of Section 5815, within three days of a member's admission. If admission procedures are initiated while the person is in a psychiatric inpatient facility, the plan shall include assignment of a staff team as defined in subdivision (a) of Section 5816 and referral to a peer support or self-help group prior to discharge from the psychiatric inpatient facility.

(i) A plan for the provision of vocational skills training and employment services. The plan shall include reference to the employment, educational, and skills training services to be provided directly by the pilot agencies and those to be secured by purchase of service or other means. A pilot agency shall utilize community college programs for the seriously mentally disordered where available and shall offer consultation to community colleges in the development of these programs.

(Amended by Stats. 1989, Ch. 75, Sec. 9. Effective June 30, 1989.)

Article 8. Pilot Agency Target Population

(Article 8 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5817. The pilot agencies shall serve members of the target population, as defined in subdivisions (a) to (d), inclusive, of Section 5831.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 9. Pilot Agency Membership Provisions

(Article 9 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5818. (a) Membership to a pilot agency may result from outreach activities of the pilot agency, by self-referral of persons with serious mental disorder and by referral from friends, family members, conservators, judges, state and local hospitals, county mental health agencies, or other agencies or professionals. The pilot agencies shall maintain a record of all referrals for membership, including those which have been rejected.

(b) For purposes of selecting members for the pilot system, the State Department of Mental Health shall establish an independent

selection panel comprised of representatives from the Integrated Service Agency, the local county mental health department, and the State Department of Mental Health. The selection panel shall determine who is eligible for admissions to the pilot agency. Persons admitted shall be a representative sample of seriously mentally disordered persons in the county that meet the target population criteria pursuant to subdivisions (a) to (d), inclusive, of Section 5831.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5819. No later than March 15, 1989, the department shall do all of the following:

(a) Establish a method for screening or auditing by the department to assure that pilot programs are serving members, as defined in subdivisions (a) to (d), inclusive, of Section 5831, including ethnic minorities and minors. The department's screening or auditing activities shall include monitoring to assure that pilot agencies are accepting and are not rejecting clients with severe mental disorders requiring extensive treatment and rehabilitation services.

(b) Establish a method for determining admission criteria for persons with a dual diagnosis of serious mental illness and substance abuse, mental retardation, or other physical or mental disability.

(c) Service contracts, as defined in Section 5815, with each member shall be for a minimum period of six months. Contracts shall hold the pilot agency responsible for the provision of services, pursuant to the member's personal service plan, and shall hold the member responsible for participating in the programs and services specified in the member's personal service plan.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5820. (a) Members of a pilot agency shall be subject to the same laws as all other persons, including the provisions of the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000), governing involuntary treatment.

If, after all other alternatives have been exhausted, a pilot agency finds that a member needs to be served involuntarily, the director of the pilot agency may be designated as authorized to carry out Section 5150 subject to the standard policies and procedures of the host county or counties.

This authority shall be discussed with members when they become members. They shall also be advised of their legal rights and of the availability of patients' rights to services.

(b) If a member is involuntarily detained by anyone, under the provisions of the state's mental health law, the pilot agencies shall be notified. As the member's service and financial agent, the

pilot agencies shall be involved in the determination of payment, treatment, and discharge of the member pursuant to Section 5816.

(c) A member of a pilot agency may terminate membership at any time. In these cases, the pilot agencies shall make every effort to assist the member in finding alternative services and, if necessary, shall pay for these services until a new member has been admitted to fill the vacancy, after which the agency's financial responsibility for the former member shall cease. Alternative services shall be one of the services described in Section 5815 and payment shall not exceed established rates for those services pursuant to subdivision (a) of Section 5822.

If a member who has terminated membership wishes to return, the pilot agency shall make every effort to resume the provision of services to the member.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5821. (a) Members of a pilot agency shall have all the protections and rights guaranteed to mental health clients in Part 1 (commencing with Section 5000) and Part 2 (commencing with Section 5600) of this division, and in Public Law 99-319, the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S. C.A. Secs. 2471, 10801, 10802-10807, 10821-10827, 10841, and 10851).

Members shall have access to the services of county patients' rights advocates as provided in Chapter 6.2 (commencing with Section 5514) of Part 1.

Members shall be notified orally and in writing regarding their legal rights at the time of commencing their membership with the pilot agencies.

(b) In addition to all rights established in existing law, the director shall, with the advice of the panel of advisers, establish requirements for additional protections and grievance procedures to the extent permitted by federal law as may be necessary to assure that the needs and concerns of members with respect to a pilot agency are heard and resolved in a fair manner. All requirements shall be included in the contract between the department and the pilot agencies.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 10. Service Delivery Provisions

(Article 10 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5822. (a) Pilot agencies shall negotiate with providers for the amount, type, and quality of service needed. Within the limit

of funds available, pilot agencies may negotiate rates of payment to providers using procedures for negotiated rates established in Section 5705.2.

(b) A pilot agency shall not contract with any provider if the direct result of the contract is a reduction of necessary services for persons with serious mental illness who are not members of the pilot agency.

(c) Pilot agencies shall recommend to the director modification of any law, regulation, or policy which interferes with the provision of effective services. The director shall consolidate these recommendations and report them annually to the Secretary of Health and Welfare and to the appropriate legislative committees.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 11. Participation in Information and Evaluation System

(Article 11 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5823. (a) Pilot agencies shall participate in the information and evaluation system pursuant to subdivision (c) of Section 5833 and subdivision (b) of Section 5836. Each pilot agency shall be provided a personal computer and the software to the extent necessary to produce at least the following information:

(1) The number of members who are eligible for various state and federal sources of funding.

(2) Continuous updates on the implementation of each member's personal service plan.

(3) A cumulative file of services received and expenditures.

(4) Contract compliance reports for the department.

(5) Reports required by the independent program evaluator.

(6) Current files on all expenditures, financial commitments, and budget status.

(b) The department shall provide pilot agencies with the hardware and software programs and training needed to produce standardized information for a centralized finance and program reporting system.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 12. Other Research and Evaluation Activities

(Article 12 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5824. In addition to the systemwide evaluation pursuant to

Chapter 5, pilot agencies may, with the approval of the director, conduct their own evaluation activities. Pilot agencies may develop collaborative projects with colleges and universities for the purpose of evaluating new diagnostic, treatment, and rehabilitative methods, and for the purpose of providing training opportunities for students in the methods of an integrated service system. Members shall have the right to accept or refuse participation in the research projects.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 13. Funding Level and Performance Contracts

(Article 13 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5825. Unless requested by the department and approved by the Legislature, the total annual amount requested in each fiscal year for the budgets of the contracted pilot agencies, serving no more than 400 clients, shall not exceed either one-fourth the average annual estimated cost of serving 400 patients in state hospitals in the same year, or the average annual estimated cost of serving 400 clients in the conditional release program in the same year, whichever is less. The base budget for the integrated service system shall not include, and is in addition to, any income received by clients from SSI/SSP, SSDI, or other public income maintenance cash grants.

Pilot agencies shall be funded through annual performance contracts with the department. The department shall negotiate performance contracts to:

(a) Provide for the prepayment of a fixed capitated amount for all members to be served per annum without regard to the type or amount of services to be provided to any individual member. The department may contract for different prepaid amounts with each of the pilot agencies. Funding amounts may be adjusted in future years consistent with Section 5828.

(b) Provide pilot agencies with periodic advance payments for a specified number of members. After the first advance payment, succeeding advance payments are to be paid when performance pursuant to stipulation of the contract has been affirmed by the department. No advance payment shall exceed 25 percent of the total annual contracted amount. Pilot agencies shall be evaluated at least once annually, and shall be monitored regularly by the department.

(c) Provide the department with all the information needed to evaluate the financial and program performance of the pilot agencies.

(Amended by Stats. 1989, Ch. 75, Sec. 10. Effective June 30, 1989.)

5826. The department shall organize and provide training to pilot agency personnel on a regular basis. Training shall include consultation with, and presentations from, experts with experience in the operation of model systems of service for the seriously mentally disordered in California and other states.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5827. (a) Notwithstanding any other provision of state law, absent a finding of fraud, abuse, or failure to perform as contracted, no restrictions, other than any contained in the contract, shall be placed upon a pilot agency's expenditures or retention of funds received pursuant to this part.

(b) Should the department contract with one or more profitmaking organizations for the purposes of this part, the contract or contracts shall include a limitation on the percentage of the total annual contracted amount that may be retained as profit.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 14. Financing

(Article 14 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5828. (a) In order to offset the cost of services, pilot agencies shall collect reimbursement for services during the pilot period from the following sources:

(1) Fees paid by members or their families, which shall be the same as patient fees established pursuant to Section 5718.

(2) Fees paid by private or public third-party payers.

(3) Categorical funds from programs established in state or federal law, for which persons with serious mental disorders are eligible.

(4) The department shall immediately seek to obtain authorizations which may be required to obtain federal financial participation for services rendered through the pilot agencies.

(b) It is the intent of the Legislature to maximize the use of federal funds currently available only in separate categorical programs for the purposes of supporting the costs of an integrated system. The Secretary of Health and Welfare is hereby authorized to transfer each fiscal year during which the pilot agency is in effect those funds identified in the State Departments of Health Services, Social Services, Mental Health, Alcohol and Drug Programs, and the Departments of Rehabilitation and Housing and Community Development for which seriously mentally disabled persons are eligible. To the extent that the secretary does transfer funds, the amount transferred

shall not exceed the average amount expended on 400 persons with serious mental disorders by each separate categorical program, including costs involved in determining eligibility and other administrative functions.

(c) The secretary may delegate eligibility determination to pilot agencies.

(d) The Secretary of the Health and Welfare Agency may waive any state regulatory obstacles to the integration of public responsibilities and resources as required herein, for the members within the pilot system.

(e) The Secretary of Health and Welfare, and those departments designated as single state agencies administering federal programs, shall make every effort to secure federal waivers and any other changes in federal policy or law necessary to assure full implementation of this section.

(f) The Secretary of Health and Welfare shall undertake studies to assess the level of services provided for the severely mentally ill by all departments within the Health and Welfare Agency. These studies shall include the source and amount of funding expended on this population, the types of services provided, and the eligibility requirements for each program. The secretary shall also make recommendations regarding the feasibility of consolidating these state and federal categorical funds and identify any federal statutory and regulatory obstacles to the integration of public responsibilities and resources for pilot services agencies.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5829. The secretary shall submit a report to the appropriate legislative committees on an annual basis summarizing the actions taken by the secretary pursuant to Section 5828.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

Article 15. Contingency Funding

(Article 15 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5830. (a) The director shall set aside 10 percent of the budget request for the budgets for the fiscal years 1989-90, 1990-91, 1991 -92, and 1992-93 for contingencies.

Contingency expenditures may include the following:

(1) Small loans or grants to pilot agencies for the initial costs of establishing new services needed by members.

(2) Emergency assistance to pilot agencies for unusual unanticipated costs.

(b) The department shall develop policies for resolving problems related to unanticipated catastrophic costs. The policies may include the purchase of private insurance.

(c) Notwithstanding any other provision of state law, funds allocated to the department for the purposes of this part shall remain with the department until the purposes for which they have been appropriated by this part have been achieved.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 3. DEFINITION OF SERIOUS MENTAL DISORDER, TARGET POPULATIONS, AND HIGH RISK

(Chapter 3 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5831. (a) For purposes of this part, "serious mental disorder" means a mental disorder which is severe in degree and persistent in duration, which may cause behavioral functioning which interferes substantially with the primary activities of daily living, and which may result in an inability to maintain stable adjustment and independent functioning without treatment, support, and rehabilitation for a long or indefinite period of time. Serious mental disorders include schizophrenia, as well as major affective disorders or other severely disabling mental disorders. This section shall not exclude dual-diagnosed persons with a primary diagnosis of a serious mental disorder and secondary diagnoses of substance abuse or developmental disability or other physical or mental disorder.

(b) The State Department of Mental Health shall define the "target populations of seriously mentally disordered adults and seniors" who have priority for services for the demonstration counties and pilot service agencies, hereafter known as the target population. It shall promulgate a document with specific criteria, including the requirement that a member of the target population shall meet all three of the following:

(1) A mental disorder as defined by the Diagnostic and Statistical Manual III-R, other than a primary substance use disorder or developmental disorder.

(2) As a result of the mental disorder the person has substantial functional impairments or symptoms, or a psychiatric history demonstrating that without treatment there is an imminent risk of decompensation to having substantial impairments or symptoms. "Functional impairment" means being substantially impaired as the result of a mental disorder in one of the following: independent living, social relationships, vocational skills, or physical condition.

(3) As a result of the functional impairment the person is

eligible for public assistance, services, or entitlements or is otherwise legally a public responsibility or fiscal liability.

(c) This target population explicity includes ethnic minorities and other disadvantaged persons.

(d) Target population members include, but may not be limited to, persons who are:

(1) Criminal justice offenders.

(2) Homeless.

(3) Receiving ongoing public assistance related to their severe mental disorder, including, but not limited to, SSI/SSD, General Relief, AFDC, and Unemployment Insurance.

(4) In local acute inpatient facilities, state hospitals, or locked skilled nursing for the psychiatrically disordered.

(5) Receiving public services related to their severe mental disorder, including, but not limited to, the public guardian/conservator, regional resource center, or adult protective services.

(6) Require acute treatment as a result of a first psychotic "break" and who are expected to meet target population requirements within this section.

(e) Demonstration counties shall also provide services to persons at "high risk" of entering the target population. "High risk" means the person requires acute psychiatric inpatient care or outpatient crisis intervention because of a mental disorder with symptoms of psychoses, suicidality, or violence, and clinical judgment determines with reasonable certitude that without treatment the client will decompensate to the target population.

(f) Demonstration counties shall be required to use demonstration project funds provided for in this part to develop services and programs for the target population. Counties shall also be required to commit to the demonstration project those state and local funds already identified with existing services to the target population.

(g) Nothing in this part shall be construed to prohibit the expenditure of existing categorical funds to identify and serve the target populations except as the funds are explicitly intended for nontarget populations.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 4. ADVISORY COMMITTEE

(Chapter 4 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5832. (a) An advisory committee is hereby established to advise and consult with the Director of Mental Health on all aspects

of the demonstration county and pilot service agency projects.

(b) The committee shall include representatives from the Conference of Local Mental Health Directors, the California Council on Mental Health, the Organization of Mental Health Advisory Boards, the California Alliance for the Mentally Ill, the California Network of Mental Health Clients, the Public Guardian's Association, the California Council of Community Mental Health Contractors, the Task Force for the Seriously Mentally Ill and representatives from organizations or groups representing older adults and ethnic minorities, and other appropriate constituency and consumer groups as determined by the Director of Mental Health. The panel of advisers shall also include a psychiatrist and a social worker, with distinguished experience in the provision of services to persons with serious mental disorders, who shall be appointed by the Senate Rules Committee; a nurse and a psychologist, with distinguished experience in the provision of services to persons with serious mental disorders, who shall be appointed by the Speaker of the Assembly; and two persons who have experienced mental disorders, as defined in subdivisions (a) to (e), inclusive, of Section 5831, and two family members, as defined in subdivision (c) of Section 5813, who shall be appointed by the Governor. No person shall be appointed to the panel of advisers who would have a financial conflict of interest as a result of the appointment.

(c) The functions of the advisory committee may include, but are not limited to, assistance in the development of the request for proposals, consultation to the demonstration counties and pilot agencies, reviews of the annual progress reports, and participation in determining if demonstration counties and pilot agencies have provided substantial progress toward the goals listed in Section 5834, and other duties as determined by the Director of Mental Health.

(d) The director or his or her designee shall chair meetings of the advisory committee, which shall be called at his or her discretion at least four times annually. Panel members shall be reimbursed for necessary travel and per diem costs at customary state rates.

(Amended by Stats. 1989, Ch. 75, Sec. 11. Effective June 30, 1989.)

CHAPTER 5. CLIENT AND COST OUTCOME EVALUATION

(Chapter 5 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5833. (a) It is the intent of the Legislature that client and cost outcome and interagency collaboration for demonstration counties and pilot agencies be evaluated and compared.

(b) A primary purpose of this part is to evaluate the

feasibility of expanding the pilot integrated service agencies or the demonstration county interagency systems for seriously mentally disordered adults and seniors and to utilize the conclusions of an evaluation for the purpose of modifying state policies.

(c) In order to facilitate comparison of client and cost outcomes, demonstration counties and pilot agencies shall conform to the reporting requirements of the State Department of Mental Health, including those of the Client Data System, the Cost Reporting/Data Collection Manual and the Short-Doyle requirements for clinical recordkeeping, and any other data collection and reporting requirements deemed necessary by the department.

(d) To assure an adequate comparison with the existing public mental health system, the department may select a nondemonstration comparison entity for each pilot agency and demonstration county. For pilot agencies, the host counties shall be the comparison entities. For demonstration counties, a comparison county which reflects demographics and other characteristics of the demonstration county shall be selected as a comparison entity.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5834. The State Department of Mental Health shall define and establish client and cost outcome and interagency collaboration goals and negotiate the expected level of attainment with demonstration counties and pilot agencies. In addition, the department shall evaluate the impact of the pilot agencies on target population members in the county that are not served by the pilot agencies. The actual outcomes and evaluation findings shall be the basis for estimating the expected client and cost and interagency collaboration benefits if either county interagency systems of care or integrated service agencies were implemented statewide. Expected levels of attainment shall be specified for the following goals and other goals that may be identified by the department:

(a) Client improvement/maintenance outcome goals that measure the benefit of services:

(1) Reduction in the rate at which clients use state hospital bed days.

(2) Reduction in the rate at which clients use local acute inpatient bed days.

(3) Decrease in the rate at which clients are admitted to acute care facilities under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000).

(4) Reduction in the rate at which clients spend time in the local jails.

(5) Increase in the rate at which clients receive income support entitlements.

(6) Increase in the rate at which homeless persons accept services.

(7) Increase in the rate at which clients remain in the least restrictive, most normal housing consistent with their capabilities for at least one year.

(8) Increase in the rate at which clients are actively engaged in the community support network as measured by participation in peer support or self-help groups or socialization center programs, or other meaningful social support activities.

(9) Increase in the rate at which clients are participating in a rehabilitation program, as measured by membership in a psychiatric rehabilitation program, a supported employment program or a competitive employment program for at least one year.

(10) Increase in the rate at which multiproblem clients, including those with a secondary diagnosis of substance abuse and seniors with special needs, are receiving a comprehensive program of treatment that addresses their dual-diagnostic needs.

(11) Minimize the rate at which clients are more dependent and living in more restrictive environments.

(12) Decrease in the rate at which clients with a secondary diagnosis of substance abuse are abusing dangerous drugs.

(b) Cost savings, cost avoidance, and cost-effectiveness outcomes shall measure any short-term or long-term cost savings and cost avoidance achieved:

(1) All major public costs for clients, including mental health, housing social services, vocational rehabilitation, health services (including Medi-Cal), and adult protective services and public guardianship.

(2) Costs for crisis residential, local acute, and state hospital care.

(3) Costs for criminal recidivism.

(4) Other short-term and long-term costs related to client outcome goals.

(c) System of care effectiveness outcome goals shall measure the extent to which the target population is being served.

(1) The percentage of clients who meet the target population definition.

(2) The percentage of noncategorical local assistance funds that are spent on nontarget populations.

(3) The extent to which the joint responsibilities specified in the interagency agreements have been fulfilled.

(4) The extent to which ethnic minorities are served in proportion to their numbers in the general population.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5835. The State Department of Mental Health shall assign technical and program staff and resources with assistance as necessary from private contractors to work jointly with demonstration counties and pilot agencies in developing a model for client outcome evaluation

that will provide full accountability for client and cost outcomes and interagency collaboration at the state and local level. The model may include, but not be limited to, the following:

(a) Identify and collect baseline measures and other information needed to determine progress toward client and cost outcome goals and interagency collaboration goals during the demonstration project.

(b) Determine the extent to which target population members including seniors, ethnic minorities, and persons with multiple disabilities are underserved.

(c) Evaluate the demonstration project caseload standards and make recommendations for statewide standards.

(d) Develop methods to monitor the entry, movement, and exit of an individual client in the system of care in order to determine the cost and outcome of treatment over time. Identify statutory and regulatory changes needed to track clients across programs.

(e) Develop client and cost outcome measures that can be externally monitored at both the state and county level and reported on a regular basis.

(f) Develop methodologies that determine the average cost to serve each client in the target population and also estimate the maximum number of persons in the target population that each demonstration county can serve with available project resources. Methodologies shall permit estimates of resources needed to serve members of the target population in all counties.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5836. (a) No later than 180 days from the effective date of this part, the director shall contract with one or more qualified persons or organizations to assist the department in fulfilling its responsibilities pursuant to Section 5834 and Section 5835. Assistance provided by the contractors may include, but is not limited to:

(1) Designing evaluation and comparison methodologies.

(2) Monitoring implementation of the methodologies.

(3) Providing oversight and technical assistance on demonstration projects aspects pertaining to evaluation and comparison of those projects.

(4) Analysis of outcome data.

(b) The evaluator shall secure approval of the director and his or her advisory board regarding the issues and questions to be included in the comparison and methodology to be used.

(c) The contractor shall provide periodic independent progress reports at least annually, and shall provide an independent report addressing the result of the evaluation which shall be included in the final report of the director pursuant to Section 5837.

(d) As necessary, the contractor shall assist the department in designing the information system that will permit continuous monitoring of client and cost outcomes and interagency collaboration for both the demonstration counties and pilot agencies. To the extent possible, this information system shall be compatible with existing data collection systems within the State Department of Mental Health.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5836.1. Notwithstanding any other provisions of law, nothing shall preclude the department from entering into sole-source contracts to fulfill its responsibilities pursuant to Article 11 (commencing with Section 5823) of Chapter 2, and this chapter.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5837. (a) The State Department of Mental Health shall monitor the demonstration counties and pilot agencies for adherence to caseload standards, accurate and timely data reporting, adherence to state quality assurance standards and take sanctions if it is determined that the conditions of the performance contract are not being met. Sanctions shall be invoked as provided for in Section 5655.

(b) Demonstration counties and pilot agencies shall report to the State Department of Mental Health progress toward client and cost outcome and interagency collaboration goals pursuant to Section 5834.

(c) The State Department of Mental Health shall review the demonstration counties and pilot agencies project findings and may proceed to implement additional demonstration counties or pilot agencies prior to the end of the demonstration period if the director finds that the demonstration counties or the pilot agencies have resulted in substantial progress toward the goals listed in Section 5834.

(d) No later than December 1, 1992, the Director of Mental Health shall submit a written report to the appropriate legislative committees comparing and evaluating the demonstration counties and the pilot agencies, and determining the feasibility of implementing additional county interagency systems and integrated service agencies throughout the state after June 30, 1993. The report shall include the recommendations of the director pursuant to Sections 5834 and 5835 and the reports of the independent evaluator hired pursuant to Section 5836.

(e) These committees shall make their recommendations to the Legislature by January 31, 1993.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 6. EMERGENCY REGULATIONS

(Chapter 6 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5838. By July 1, 1989, the State Department of Mental Health shall develop regulations as necessary to implement the county demonstration and pilot agency projects enabled by Chapter 1 (commencing with Section 5800) and Chapter 2 (commencing with Section 5808). The Director of Mental Health shall adopt regulations pursuant to this section as emergency regulations, in accordance with provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law and shall not be subject to automatic repeal until 180 days after the regulations take effect, and shall become effective immediately upon filing with the Secretary of State. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity for public participation and comments.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 7. FINANCIAL PARTICIPATION

(Chapter 7 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5839. The cost requirements for local financial participation pursuant to Section 5705 shall be waived for funds appropriated to support the demonstration projects established by Chapter 1 (commencing with Section 5800) and Chapter 2 (commencing with Section 5808) of this part.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

CHAPTER 8. APPROPRIATIONS

(Chapter 8 added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

5840. (a) The sum of one million dollars ($1,000,000) is hereby appropriated from the General Fund to the State Department of Mental Health in augmentation of the Budget Act of 1988 in accordance with the following schedule:

(1) Five hundred eleven thousand dollars ($511,000) in augmentation of Item 4440-001-001 to provide for departmental support for startup costs.

(2) Four hundred eighty-nine thousand dollars ($489,000) in augmentation of Item 4440-101-001 to provide for the Ventura County Children's Program.

(b) It is the intent of the Legislature that this act be funded annually for the 1989-90, 1990-91, 1991-92, and 1992-1993 fiscal years, and that funds appropriated through the budget process be apportioned 80 percent to the county demonstration projects pursuant to Chapter 1 (commencing with Section 5800) and the pilot agencies pursuant to Chapter 2 (commencing with Section 5808) of this part, and 20 percent for programs pursuant to the Children's Mental Health Services Act, Chapter 6.8 (commencing with Section 5565.10) of Part 1 of Division 5.

(Added by Stats. 1988, Ch. 982, Sec. 1. Effective September 20, 1988.)

PART 4. THE CHILDREN'S MENTAL HEALTH SERVICES ACT

(Part 4 repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

CHAPTER 1. INTERAGENCY SYSTEM OF CARE

(Chapter 1 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 1. Legislative Findings and Intent

(Article 1 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5850. This part shall be known and may be cited as the Children's Mental Health Services Act.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5851. (a) The Legislature finds and declares that there is no comprehensive county interagency system throughout California for the delivery of mental health services to seriously emotionally and behaviorally disturbed children and their families. Specific problems to be addressed include the following:

(1) The population of children which should receive highest priority for services has not been defined.

(2) Clear and objective client outcome goals for children receiving services have not been specified.

(3) Although seriously emotionally and behaviorally disturbed children usually have multiple disabilities, the many different state and county agencies, particularly education, social services, juvenile justice, health, and mental health agencies, with shared responsibility for these individuals, do not always collaborate to develop and deliver integrated and cost-effective programs.

(4) A range of community-based treatment, case management, and interagency system components required by children with serious emotional disturbances has not been identified and implemented.

(5) Service delivery standards, which ensure culturally competent care in the most appropriate, least restrictive environment have not been specified and required.

(6) The mental health system lacks accountability and methods to measure progress towards client outcome goals and cost-effectiveness. There are also no requirements for other state and county agencies to collect or share relevant data necessary for the mental health system to conduct this evaluation.

(b) The Legislature further finds and declares that the model developed in Ventura County beginning in the 1984-85 fiscal year through the implementation of Chapter 1474 of the Statutes of 1984 and expanded to the Counties of Santa Cruz, San Mateo, and Riverside in the 1989-90 fiscal year pursuant to Chapter 1361 of the Statutes of 1987, provides a comprehensive, interagency system of care for seriously emotionally and behaviorally disturbed children and their families and has successfully met the performance outcomes required by the Legislature. The Legislatures finds that this accountability for outcome is a defining characteristic of a system of care as developed under this part. It finds that the system established in these four counties can be expanded statewide to provide greater benefit to children with serious emotional and behavioral disturbances at a lower cost to the taxpayers.

(c) Therefore, using the Ventura County model guidelines, it is the intent of the Legislature to accomplish the following:

(1) To phase in the system of care for children with serious emotional and behavioral problems developed under this part to all counties within the state.

(2) To require that 100 percent of the new funds appropriated under this part be dedicated to the targeted population as defined in Section 5856.

(3) To expand interagency collaboration and shared responsibility for seriously emotionally and behaviorally disturbed children in order to do the following:

(A) Enable children to remain at home with their families whenever possible.

(B) Enable children placed in foster care for their protection to remain with a foster family in their community as long as separation from their natural family is determined necessary by the juvenile court.

(C) Enable special education pupils to attend public school and make academic progress.

(D) Enable juvenile offenders to decrease delinquent behavior.

(E) Enable children requiring out-of-home placement in licensed residential group homes or psychiatric hospitals to receive that care in as close proximity as possible to the child's usual residence.

(F) Separately identify and categorize funding for these services.

(4) To increase accountability by expanding the number of counties with a performance contract that requires measures of client outcome and cost avoidance.

(d) It is the intent of the Legislature that the outcomes prescribed by this section shall be achieved regardless of the cultural or ethnic origin of the seriously emotionally and behaviorally disturbed children and their families.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5851.5. For the purposes of this part, a "system of care county" means a county which has been approved by the State Department of Mental Health as having the capability to provide child- and family-centered services in a collaborative manner, resulting in quantitative outcome measures.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 2. County Systems of Care and Their Mission

(Article 2 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5852. There is hereby established an interagency system of care for children with serious emotional and behavioral disturbances that provides comprehensive, coordinated care based on the demonstration project under former Chapter 7 (commencing with Section 5575), as added by Chapter 160 of the Statutes of 1987, and the 1983 State Department of Mental Health planning model for children's services. Each participating county shall adapt the model to local needs and priorities.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5852.5. The department shall review those counties that have been awarded, through the request for proposal bids, funds to implement a comprehensive system for the delivery of mental health services to children with serious emotional disturbance and to their families or foster families for either of the following:

(a) The total estimated cost avoidance in all of the following categories shall equal or exceed the request for proposal award moneys:

(1) Group home costs paid by Aid to Families with Dependent Children-Foster Care (AFDC-FC) program.

(2) Children and adolescent state hospital programs.

(3) Nonpublic school residential placement costs.

(4) Juvenile justice reincarcerations.

(5) Other short- and long-term savings in public finds resulting from the request for proposal award moneys.

(b) If the department determines that the total cost avoidance listed in subdivision (a) does not equal or exceed request for proposal award amounts, the department shall determine that the county that has been awarded request for proposal moneys shall achieve substantial compliance with all of the following goals:

(1) Total cost avoidance in the categories listed in subdivision (a) to exceed 50 percent of the request for proposal award moneys.

(2) A 20 percent reduction in out-of-county ordered placements of juvenile justice wards and social service dependents.

(3) A statistically significant reduction in the rate of recidivism by juvenile offenders.

(4) A 25 percent reduction in the rate of state hospitalization of minors from placements of special education pupils.

(5) A 10 percent reduction in out-of-county in nonpublic school residential placements of special education pupils.

(6) Allow at least 50 percent of children at risk of imminent placement served by the intensive in-home crisis treatment programs, which are wholly or partially funded by request for proposal award moneys, to remain at home at least six months.

(7) Statistically significant improvement in school attendance and academic performance of seriously emotionally disturbed special education pupils treated in day treatment programs which are wholly or partially funded by request for proposal award moneys.

(Added by Stats. 1992, Ch. 1374, Sec. 49. Effective October 28, 1992.)

5853. County participation under this part shall be voluntary.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5854. The State Department of Mental Health may contract

with counties whose programs have been approved by the department and selected pursuant to Article 4 (commencing with Section 5857). A county may request to participate under this part each year according to the terms set forth in Section 5705 for the purpose of establishing a three-year program proposal for developing and implementing a children's comprehensive mental health services system. The contract shall be negotiated on a yearly basis, based on the scope of work plan for each implementation phase.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5855. The department shall adopt as part of its overall mission the development of community-based, comprehensive, interagency systems of care that target seriously emotionally and behaviorally disturbed children separated from their families or at risk of separation from their families, as defined in Section 5856. These comprehensive, interagency systems of care shall seek to provide the highest benefit to children, their families, and the community at the lowest cost to the public sector. Essential values shall be as follows:

(a) Family preservation. Children shall be maintained in their homes with their families whenever possible.

(b) Least restrictive setting. Children shall be placed in the least restrictive and least costly setting appropriate to their needs when out-of-home placement is necessary.

(c) Natural setting. Children benefit most from mental health services in their natural environments, where they live and learn, such as home, school, foster home, or a juvenile detention center.

(d) Interagency collaboration and a coordinated service delivery system. The primary child-serving agencies, such as social services, probation, education, health, and mental health agencies, shall collaborate at the policy, management, and service levels to provide a coordinated, goal-directed system of care for seriously emotionally disturbed children and their families.

(e) Family involvement. Family participation is an integral part of assessment, intervention, and evaluation.

(f) Cultural competence. Service effectiveness is dependent upon both culturally relevant and competent service delivery.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5855.5. Projects funded pursuant to Part 4 (commencing with Section 5850) of Division 5, as added by Chapter 89 of the Statutes of 1991, shall continue under the terms of this part. The State Department of Mental Health shall, no later than June 30, 1993, amend existing contracts for these projects to reflect the

requirements of this part.

(Added by renumbering Section 5856 (1st of two added by Stats. 1992, Ch. 1229) by Stats. 1993, Ch. 589, Sec. 195. Effective January 1, 1994.)

Article 3. Target Client Population

(Article 3 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5856. For the purposes of this part, "seriously emotionally disturbed children" means those minors under 18 years of age described in paragraph (2) of subdivision (a) of Section 5600.3.

(Added by Stats. 1992, Ch. 1229, Sec. 2, 2nd text. Effective January 1, 1993.)

Article 4. County Selection

(Article 4 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5857. (a) The State Department of Mental Health shall issue a request for proposals to counties no later than February 1 of each year.

(b) Proposals shall be submitted to the department by a county mental health department no later than July 1 of that year with joint approval of collaborating local agencies including, but not limited to, special education, juvenile court, and child protective services agencies, as well as the board of supervisors and the mental health advisory board.

(c) Program staff from the department shall review and approve all proposals for compliance with all requirements of law and request for proposals guidelines.

(d) The department may accept letters of intent from a county in lieu of a proposal if moneys are not available to the county, to affirm commitment by the county to participate in the request for proposals process when moneys become available.

(Amended by Stats. 1993, Ch. 589, Sec. 196. Effective January 1, 1994.)

5859. If proposals are deficient and not ready for approval, department program staff shall provide specific written descriptions of areas of deficiency to counties and provide, to the extent feasible, any requested training, consultation, and technical assistance to assist the applicant county to achieve necessary compliance and department approval.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5860. (a) Final selection of county proposals shall be made after July 1 of each year, based on the amount of funding approved for expansion of services under this part.

(b) The department shall enter into annual performance contracts with the selected counties. Pursuant to Section 5707.1, the contracts shall be exempt from the requirements of the Public Contract Code and the State Administrative Manual and shall be exempt from approval by the Department of General Services.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 5. County Proposal Components

(Article 5 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5861. Proposals for a system of care may be submitted for a region by several smaller counties acting jointly, as independent countywide proposals, or proposals to serve a discrete subset of the targeted population in a larger county, such as court dependents, court wards, or special education pupils.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5862. (a) Each county wishing to participate under this part shall develop a three-year program proposal for phasing in the children's comprehensive mental health services system.

(b) The three-year program proposal shall include all of the following:

(1) The components of the system the county proposes to implement in the first year, which shall include a case management component.

(2) The components of the system the county intends to implement in the second year.

(3) The remaining components of the system the county intends to implement in the third year. All components shall be in place by the end of the third year.

(c) Approval for participation shall be made by the department at the end of the three-year period.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5863. In addition to the requirements of Section 5862, each county program proposal shall contain all of the following:

(a) Methods and protocols for the county mental health department to identify and screen the eligible target population children.

(b) Measurable system performance goals for client outcome and cost avoidance.

(c) Methods to achieve interagency collaboration by all publicly funded agencies serving children experiencing emotional disturbances.

(d) Appropriate written interagency protocols and agreements.

(e) A description of case management services for the target population. Each county program proposal shall include protocols developed in the county for case management designed to provide assessment, linkage, case planning, monitoring, and client advocacy to facilitate the provision of appropriate services for the child and family in the least restrictive environment as close to home as possible.

(f) Mental health services that enable a child to remain in his or her usual family setting and that offer an appropriate alternative to out-of-home placement.

(g) Methods to conduct joint interagency placement screening of target population children prior to out-of-home placement.

(h) Identification of the number and level of county evaluation staff and the resources necessary to meet requirements established by the State Department of Mental Health to measure client and cost outcome and other system performance measures.

(i) A budget specifying all new and currently funded mental health expenditures provided as part of the proposed system of care. The department shall establish reporting requirements for direct and indirect administrative overhead, to be included in the request for proposals. Weight shall be given to counties with lower administrative overhead costs. In no case shall administrative costs exceed those of existing county mental health programs and services. Expenditures for evaluation staff and resources shall not be considered administrative costs for this purpose.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5864. Participating counties shall, prior to the submission of their program proposals, develop baseline data on children served by the county in the mental health services system, social services system, the juvenile justice system, and the special education system. Data shall include, but not be limited to, the numbers of children and current expenditures for group homes, nonpublic school placements, and state hospital placements. This baseline data shall be submitted to the department as part of the program proposal.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 6. County System of Care Requirements

(Article 6 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5865. Each county shall have in place, with qualified mental health personnel, all of the following within three years of funding by the state:

(a) A comprehensive, interagency system of care that serves the target population as defined in Section 5856.

(b) A method to screen and identify children in the target population. County mental health staff shall consult with the representatives from special education, social services, and juvenile justice agencies, the mental health advisory board, and others as necessary to help identify all of the persons in the target populations, including persons from ethnic minority cultures which may require outreach for identification.

(c) A defined mental health case management system designed to facilitate the outcome goals for children in the target population.

(d) A defined range of mental health services and program standards that involve interagency collaboration and ensure appropriate service delivery in the least restrictive environment with community-based alternatives to out-of-home placement.

(e) A defined mechanism to ensure that services are culturally competent.

(f) A defined mechanism to ensure that services are child-centered and family-focused, with parent participation in planning and delivery of services.

(g) A method to show measurable improvement in individual and family functional status for children enrolled in the system of care.

(h) A method to measure and report cost avoidance and client outcomes for the target population which includes, but is not limited to, state hospital utilization, group home utilization, nonpublic school residential placement, school attendance and performance, and recidivism in the juvenile justice system.

(Repealed and added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5866. (a) Counties shall develop a method to encourage interagency collaboration with shared responsibility for services and the client and cost outcome goals.

(b) The local mental health director shall form or facilitate the formation of a county interagency policy and planning

committee. The members of the council shall include, but not be limited to, the leaders of participating local government agencies, to include a member of the board of supervisors, a juvenile court judge, the district attorney, the public defender, the county counsel, the superintendent of county schools, the public social services director, the chief probation officer, and the mental health director.

(c) The duties of the committee shall include, but not be limited to, all of the following:

(1) Identifying those agencies that have a significant joint responsibility for the target population and ensuring collaboration on countywide planning and policy.

(2) Identifying gaps in services to members of the target population, developing policies to ensure service effectiveness and continuity, and setting priorities for interagency services.

(3) Implementing public and private collaborative programs whenever possible to better serve the target population.

(d) The local mental health director shall form or facilitate the formation of a countywide interagency case management council whose function shall be to coordinate resources to specific target population children who are using the services of more than one agency concurrently. The members of this council shall include, but not be limited to, representatives from the local special education, juvenile probation, children's social services, and mental health services agencies, with necessary authority to commit resources from their agency to an interagency service plan for a child and family. The roles, responsibilities, and operation of these councils shall be specified in written interagency agreements or memoranda of understanding, or both.

(e) The local mental health director shall develop written interagency agreements or memoranda of understanding with the agencies listed in this subdivision, as necessary. Written interagency agreements or memoranda shall specify jointly provided or integrated services, staff tasks and responsibilities, facility and supply commitments, budget considerations, and linkage and referral services. The agreements shall be reviewed and updated annually.

(f) The agreements required by subdivision (e) may be established with any of the following:

(1) Special education local planning area consortiums.

(2) The court juvenile probation department.

(3) The county child protective services agency.

(4) The county public health department.

(5) The county department of drug and alcohol services.

(6) Other local public or private agencies serving children.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5867. Counties shall demonstrate a maintenance of effort

in children's mental health services. Any reduction of existing Bronzan-McCorquodale children's services provided under Part 2 (commencing with Section 5600) shall be identified and justified in the program proposal developed under this chapter.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 7. County Service Standards

(Article 7 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5868. (a) The department shall establish service standards that ensure that children in the target population are identified and receive needed and appropriate services from qualified staff in the least restrictive environment.

(b) The standards shall include, but not be limited to:

(1) Providing a comprehensive assessment and treatment plan for each target population client to be served, and developing programs and services that will meet their needs and facilitate client outcome goals.

(2) Providing for full participation of the family in all aspects of assessment, case planning, and treatment.

(3) Providing methods of assessment and services to meet the cultural, linguistic, and special needs of minorities in the target population.

(4) Providing for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services resulting from a limited ability to speak English or from cultural differences.

(5) Providing mental health case management for all target population clients in, or being considered for, out-of-home placement.

(6) Providing mental health services in the natural environment of the child to the extent feasible and appropriate.

(c) The responsibility of the case managers shall be to ensure that each child receives the following services:

(1) A comprehensive mental health assessment.

(2) Case planning with all appropriate interagency participation.

(3) Linkage with all appropriate mental health services.

(4) Service plan monitoring.

(5) Client advocacy to ensure the provision of needed services.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 8. State Department of Mental Health Requirements
(Article 8 added by Stats. 1992, Ch. 1229, Sec. 2.
Effective January 1, 1993.)

5869. The department shall provide participating counties with all of the following:

(a) Request for proposal guidelines and format, and coordination and oversight of the selection process as described in Article 4 (commencing with Section 5857).

(b) Contracts with each state funded county stipulating the approved budget, performance outcomes, and scope of work.

(c) A contract with an independent evaluator for the purpose of measuring performance outcomes and providing technical assistance to the state and counties related to system evaluation.

(d) Training, consultation, and technical assistance for county applicants.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5870. The State Department of Mental Health shall establish an advisory group comprised of, but not limited to, representatives from the State Department of Education, the State Department of Social Services, the State Department of Mental Health, the Secretary of Child Development and Education, the Conference of Local Mental Health Directors, the County Welfare Directors Association, the Chief Probation Officers Association, the Special Education Local Planning Areas Directors Association, and service providers from the private sector. The function of the advisory group shall be to advise and assist the state and counties in the development of a coordinated, comprehensive children's services system under this part and other duties as defined by the Director of Mental Health. The advisory group shall submit recommendations to the Director of Mental Health regarding the selection of participating counties.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 9. Requirement to Collect Reimbursements
(Article 9 added by Stats. 1992, Ch. 1229, Sec. 2.
Effective January 1, 1993.)

5872. In order to offset the cost of services, participating counties shall collect reimbursement for services from the following sources:

(a) Fees paid by families, which shall be the same as patient fees established pursuant to Section 5718.

(b) Fees paid by private or public third-party payers.

(c) Categorical funds from sources established in state or federal law, for which persons with mental disorders are eligible.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

Article 10. Application for State Regulation Waivers

(Article 10 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5875. The Secretary of Health and Welfare shall require the State Department of Mental Health to develop an administrative waiver process for counties that either propose to be, or are considered, system of care counties by the department.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5877. (a) For system of care counties, or as part of the county program proposal to apply for status as a system of care county, requests may be made for waivers from those state regulations that appear to prevent interagency coordination or collaboration in interagency case management and other service delivery capabilities.

(b) The state regulation or regulations shall be specifically identified in the waiver request, with a statement of the reason why the identified regulation or regulations should be waived and, where applicable, the following:

(1) An assurance as to how planned interagency collaborative activities can meet the program intent of the regulation or regulations.

(2) An explanation as to why the identified regulation or regulations would create duplication of effort with an interagency collaborative approach.

(3) An explanation as to how a waiver of the regulation or regulations would not hinder the ability of the involved state agency's fiscal accountability or responsibility for federal moneys, and how granting of the waiver would support achievement of estimated cost avoidance, and result in decreased use of group homes, children and adolescent state hospital programs, nonpublic school residential placement, and juvenile justice reincarcerations, and in improved school attendance or performance.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5878. (a) (1) The Secretary of the Health and Welfare Agency, the Superintendent of Public Instruction, or the Secretary of the Youth and Corrections Agency may waive any state regulatory obstacles to the integration of public responsibilities and resources

required for counties which have been approved as system of care counties.

(2) The waiver shall remain in effect as long as the local program continues to meet standards as specified in the scope of work plan approved by the State Department of Mental Health.

(b) The Secretary of Health and Welfare, the Superintendent of Public Instruction, and the Secretary of the Youth and Corrections Agency, and those departments designated as single state agencies administering federal programs, shall make every effort to secure federal waivers and any other changes in federal policy or law necessary to support interagency collaboration and coordination in a system of care service delivery system.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

CHAPTER 2. SYSTEM EVALUATION

(Chapter 2 added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5879. (a) It is the intent of the Legislature to increase the accountability of mental health and other human services programs whenever feasible by developing and implementing new and useful measures of performance, including client and cost outcomes. The Legislature recognizes the advances in performance and outcome evaluation made by counties funded under previous statutes and seeks to continue this development with future participating counties.

(b) It is the intent of the Legislature to have a comparison of the performance indicators of each participating county to the state average whenever possible, as well as a comparison of all participating counties as a group to the state averages.

(c) It is the further intent of the Legislature to have a comparison of the performance indicators of participating counties to their history and future anticipated performance based on utilization trends and costs.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5880. For each selected county the department shall define and establish client and cost outcome and other system performance goals, and negotiate the expected levels of attainment for each year of participation. Expected levels of attainment shall include a breakdown by ethnic origin and shall be identified by a county in its proposal. These goals shall include, but not be limited to, both of the following:

(a) Client improvement and cost avoidance outcomes measures, as follows:

(1) To reduce the number of child months in group homes, residential placements pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and state hospital placements.

(2) To reduce the cost of AFDC-FC group home care, residential placements as described in paragraph (1), and state hospital utilization, by an amount which equals at least 50 percent of the third year project cost. Cost avoidance shall be based on data comparisons of statewide average expenditure and population.

(3) To increase school attendance for pupils in targeted programs.

(4) To increase the grade level equivalent of pupils in targeted programs from admission to discharge.

(5) To reduce the rate of recidivism incurred for wards in targeted juvenile justice programs.

(6) To show measurable improvement in individual and family functional status for a representative sample of children enrolled in the system of care.

(b) System development and operation measures, as follows:

(1) To provide an integrated system of care that includes multiagency programs and joint case planning, to children who are seriously emotionally and behaviorally disturbed as defined in Section 5856.

(2) To identify and assess children who comprise the target population in the county evidenced by a roster which contains all children receiving mental health case management and treatment services. This roster shall include necessary standardized and uniform identifying information and demographics about the children served.

(3) To develop and maintain individualized service plans that will facilitate interagency service delivery in the least restrictive environment.

(4) To develop or provide access to a range of intensive services that will meet individualized service plan needs. These services shall include, but not be limited to, case management, expanded treatment services at schoolsites, local juvenile corrections facilities, and local foster homes, and flexible services.

(5) To ensure the development and operation of the interagency policy council and the interagency case management council.

(6) To provide culturally competent programs that recognize and address the unique needs of ethnic populations in relation to equal access, program design and operation, and program evaluation.

(7) To develop parent education and support groups, and linkages with parents to ensure their involvement in the planning process and the delivery of services.

(8) To provide a system of evaluation that develops outcome criteria and which will measure performance, including client outcome

and cost avoidance.

(9) To gather, manage, and report data in accordance with the requirements of the state funded outcome evaluation.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5881. (a) Evaluation shall be conducted by both participating county evaluation staff and by an independent evaluation team contracted for by the department.

(b) Evaluation at both levels shall do all of the following:

(1) Ensure that county level systems of care are serving the targeted population.

(2) Ensure that the timely performance data related to client outcome and cost avoidance is collected, analyzed, and reported.

(3) Ensure that system of care components are implemented as intended.

(4) Provide information documenting needs for future planning.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5882. (a) Participating counties shall assign sufficient resources to performance evaluation to enable the county to fulfill all evaluation responsibilities specified in the contract with the department.

(b) Counties shall cooperate with the independent evaluator regarding the development of uniform measures of performance.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

5883. (a) The department shall facilitate improved access to relevant client and financial data from all state agencies, including, but not limited to, the State Department of Social Services, the State Department of Education, the State Department of Health Services, the State Department of Mental Health, the Department of the Youth Authority, and the Department of Finance.

(b) The State Department of Mental Health shall expand the funding allocated to the contract for independent evaluation, as necessary to accommodate the increase in workload created by the addition of new sites.

(c) The State Department of Mental Health shall assist the independent evaluator to secure additional federal and private foundation resources for expanded evaluation research related to the system of care described in this part.

(d) The independent evaluator shall do all of the following:

(1) Develop uniform data collection and reporting measures applicable to all participating counties.

(2) Collect, analyze, and report performance outcome data for participating counties as a group in comparison to state averages.

(3) Offer technical assistance to participating counties related to data collection, analysis, and reporting.

(Added by Stats. 1992, Ch. 1229, Sec. 2. Effective January 1, 1993.)

PART 5. INSTITUTIONS FOR MENTAL DISEASE

(Part 5 added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

CHAPTER 1. GENERAL PROVISIONS

(Chapter 1 added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

Article 1. Legislative Findings and Intent

(Article 1 added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5900. This part is intended to organize and finance mental health services in skilled nursing facilities designated as institutions for mental disease, in a way that will promote the well-being of the residents. It is furthermore intended to effectively utilize existing resources in the delivery of mental health services to severely and persistently mentally disabled persons; to ensure continued receipt of federal funds; to minimize the fiscal exposure of counties; to maintain state responsibility for licensing and certification; to maintain services to individual county consumers at the 1990 -91 fiscal year levels; and to provide a mechanism for the orderly transition of programmatic and fiscal responsibility from the state to the counties, in a way that will maintain the stability and viability of the industry.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5901. (a) The Legislature finds that the following issues relating to program operation must be resolved prior to the full assumption of responsibility for institutions for mental disease program monitoring and reimbursement procedures by the counties:

(1) The information regarding the program is inadequate to

accurately allocate funding to the counties without significant disruption of patient care.

(2) There is currently no administrative mechanism whereby all counties can immediately assume these responsibilities without endangering the health and safety of the persons being served.

(b) (1) During the 1991-92 fiscal year, the sum of eighty-seven million seven hundred twenty-seven thousand dollars ($87,727,000) shall be made available from the Mental Health Subaccount of the Sales Tax Account of the Local Revenue Fund to the department for support of institutions for mental disease.

(2) For the 1991-92 fiscal year, the department shall issue a preliminary allocation of at least fifty-seven million four hundred fifty thousand dollars ($57,450,000) of the amount identified in paragraph (1). In developing a preliminary allocation, the department shall utilize a methodology that will minimize disruption of services to persons being served and that will continue access at the 1990-91 fiscal year level.

(3) During the 1991-92 fiscal year, the department shall administer institution for mental disease resources remaining from the amount identified in paragraph (1) after the allocation described in (2) has been made, as a risk pool on behalf of all the counties. Effective July 1, 1991, the department shall enter into contracts with institutions for mental disease providers at the 1990-91 fiscal year contract bed level. These resources shall be made available to all counties.

(4) The department shall establish a method for the identification of persons, by county, residing in institutions for mental disease, and notification of counties of their program and fiscal responsibilities.

(c) The Department of Finance may authorize a loan of up to twenty million dollars ($20,000,000) from the General Fund for deposit into the Institutions for Mental Disease Account of the Mental Health Facilities Fund established pursuant to Section 17602.05, for use by the State Department of Mental Health in implementing this part.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

Article 2. Interim Contracting Mechanism

(Article 2 added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5902. (a) In the 1991-92 fiscal year, funding sufficient to cover the cost of the basic level of care in institutions for mental disease at the rate established by the State Department of Health Services shall be made available to the department for skilled nursing facilities, plus the rate established for special treatment

programs. The department may authorize a county to administer institutions for mental disease services if the county with the consent of the affected providers makes a request to administer services and an allocation is made to the county for these services. The department shall continue to contract with these providers for the services necessary for the operation of the institutions for mental disease.

(b) In the 1992-93 fiscal year, the department shall consider county-specific requests to continue to provide administrative services relative to institutions for mental disease facilities when no viable alternatives are found to exist.

(c) (1) By October 1, 1991, the department, in consultation with the California Conference of Local Mental Health Directors and the California Association of Health Facilities, shall develop and publish a county-specific allocation of institutions for mental disease funds which will take effect on July 1, 1992.

(2) By November 1, 1991, counties shall notify the providers of any intended change in service levels to be effective on July 1, 1992.

(3) By April 1, 1992, counties and providers shall have entered into contracts for basic institutions for mental disease services at the rate described in subdivision (e) for the 1992-93 fiscal year at the level expressed on or before November 1, 1991, except that a county shall be permitted additional time, until June 1, 1992, to complete the processing of the contract, when any of the following conditions are met:

(A) The county and the affected provider have agreed on all substantive institutions for mental disease contract issues by April 1, 1992.

(B) Negotiations are in process with the county on April 1, 1992, and the affected provider has agreed in writing to the extension.

(C) The service level committed to on November 1, 1991, exceeds the affected provider's bed capacity.

(D) The county can document that the affected provider has refused to enter into negotiations by April 1, 1992, or has substantially delayed negotiations.

(4) If a county and a provider are unable to reach agreement on substantive contract issues by June 1, 1992, the department may, upon request of either the affected county or the provider, mediate the disputed issues.

(5) Where contracts for service at the level committed to on November 1, 1991, have not been completed by April 1, 1992, and additional time is not permitted pursuant to the exceptions specified in paragraph (3) the funds allocated to those counties shall revert for reallocation in a manner that shall promote equity of funding among counties. With respect to counties with exceptions permitted pursuant to paragraph (3), funds shall not revert unless contracts are

not completed by June 1, 1992. In no event shall funds revert under this section if there is no harm to the provider as a result of the county contract not being completed. During the 1992-93 fiscal year, funds reverted under this paragraph shall be used to purchase institution for mental disease/skilled nursing/special treatment program services in existing facilities.

(6) Nothing in this section shall apply to negotiations regarding supplemental payments beyond the rate specified in subdivision (e).

(d) On or before April 1, 1992, counties may complete contracts with facilities for the direct purchase of services in the 1992-93 fiscal year. Those counties for which facility contracts have not been completed by that date shall be deemed to continue to accept financial responsibility for those patients during the subsequent fiscal year at the rate specified in subdivision (a).

(e) As long as contracts with institutions for mental disease providers requires the facilities to maintain skilled nursing facility licensure and certification, reimbursement for basic services shall be at the rate established by the State Department of Health Services for skilled nursing facilities, plus the rate established for special treatment programs.

(f) (1) Providers that agree to contract with the county for services under an alternative mental health program pursuant to Section 5768 that does not require skilled nursing facility licensure shall retain return rights to licensure as skilled nursing facilities.

(2) Providers participating in an alternative program that elect to return to skilled nursing facility licensure shall only be required to meet those requirements under which they previously operated as a skilled nursing facility.

(g) In the 1993-94 fiscal year and thereafter, the department shall consider requests to continue administrative services related to institutions for mental disease facilities from counties with a population of 150,000 or less based on the most recent available estimates of population data as determined by the Population Research Unit of the Department of Finance.

(Amended by Stats. 1992, Ch. 1374, Sec. 50. Effective October 28, 1992.)

5903. (a) For the purposes of this section, the following definitions shall apply:

(1) "Client" means an individual who is all of the following:

(A) Mentally disabled.

(B) Medi-Cal eligible.

(C) Under the age of 65 years.

(D) Certified for placement in an institution for mental disease by a county.

(E) Eligible for Supplemental Security Income/State

Supplementary Program for the Aged, Blind, and Disabled (SSI/SSP) benefits.

(2) "Client's payee" means an authorized representative who may receive revenue resources, including SSI/SSP benefits, on behalf of a client.

(3) "SSI/SSP benefits" means revenue resources paid to an eligible client, or the client's payee, by the federal Social Security Administration pursuant to Subchapter 16 (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code, and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9.

(b) (1) Between August 1, 1991, and June 30, 1992, institution for mental disease providers shall make reasonable efforts to collect SSI/SSP benefits from a client or a client's payee. The provider shall invoice the client or the client's payee for the SSI/SSP benefits, minus the personal and incidental allowance amount as established by the Social Security Administration, and remit all SSI/SSP funds collected to the department pursuant to procedures established by the department.

(2) Commencing July 1, 1992, and to the extent permitted by federal law, institution for mental disease providers may collect SSI/SSP benefits from a client or a client's payee. The amount to be invoiced shall be the amount of the client's SSI/SSP benefits, minus the personal and incidental allowance amount as established by the Social Security Administration. The administrative mechanism for collection of SSI/SSP benefits, including designation of the party responsible for collection, shall be determined by negotiation between the counties and the providers.

(c) In collecting SSI/SSP benefits from the client or the client's payee, the provider shall not be deemed to be the authorized representative, as defined in Section 72015 of Title 22 of the California Code of Regulations, for purposes of handling the client's moneys or valuables.

(d) Providers shall make all reasonable efforts, as specified in procedures developed by the department in consultation with providers, to collect SSI/SSP benefits from the client or the client's payee. Providers shall establish an accounting procedure, approved by the department, for the actual collection and remittance of these funds.

(e) Providers shall prorate the client's SSI/SSP benefits by the number of days spent in the facility.

(f) After June 30, 1992, and not later than January 1, 1993, the department shall make data available to the Legislature, upon request, regarding the SSI/SSP collections made by institution for mental disease providers pursuant to this section.

(Amended by Stats. 1991, Ch. 918, Sec. 1. Effective October 14, 1991.)

5903.5. Notwithstanding any other provision of law, the

department may liquidate accounts receivable from individual clients or payees of clients from institution for mental disease funds appropriated by the Legislature, when they have been determined by the department to be uncollectible, including accounts receivable in existence prior to the effective date of this section. Liquidation shall occur no sooner than 12 months after the original date of the accounts receivable debt.

(Added by Stats. 1991, Ch. 918, Sec. 2. Effective October 14, 1991.)

Article 3. Procedures for the Transfer of Responsibility from the State to the Counties

(Article 3 added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5907. No later than January 1, 1992, the director, in consultation with the California Conference of Local Mental Health Directors and representatives of institutions for mental disease, shall develop a suggested uniform contract format that may be used by counties for the purchase of services from institutions for mental disease.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5908. On or before October 1, 1992, and in each following year, the counties contracting directly with the facility shall inform the facility of any intent to modify the quantity of services to be purchased in the subsequent fiscal year. Contracts for these services shall be completed by April 1 of each year for the following year. In the absence of cause, changes shall not be made without this notification.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5909. The Director of Mental Health shall retain the authority and responsibility to monitor and approve special treatment programs in skilled nursing facilities in accordance with Sections 72443 to 72474, inclusive, of Title 22 of the California Code of Regulations.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5910. Nothing in this article shall preclude two or more counties from establishing a single agreement with a facility, or group of facilities, for the purchase of services for the counties as a single entity. When two or more counties enter into an agreement, a

single county may act as the host county for the purpose of program management and administration.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5911. A county or group of counties, by agreement, may expand services into additional facilities utilizing any funds available to the county or counties for that purpose.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5912. As long as contracts require institutions for mental disease to continue to be licensed and certified as skilled nursing facilities by the State Department of Health Services, they shall be reimbursed for basic services at the rate established by the State Department of Health Services for skilled nursing facilities, plus the rate established for special treatment programs.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

5914. By April 1, 1992, the California Conference of Local Mental Health Directors shall submit to the Joint Legislative Budget Committee a status report on the use of institutions for mental disease funds not directly tied to institution for mental disease contract services.

(Added by Stats. 1991, Ch. 89, Sec. 198. Effective June 30, 1991.)

DIVISION 6. ADMISSIONS AND JUDICIAL COMMITMENTS

(Division 6 repealed (comm. with Section 5000) and added by Stats. 1967, Ch. 1667.)

PART 1. ADMISSIONS

(Part 1 added by Stats. 1967, Ch. 1667.)

CHAPTER 1. VOLUNTARY ADMISSIONS TO MENTAL HOSPITALS AND INSTITUTIONS

(Chapter 1 added by Stats. 1967, Ch. 1667.)

6000. Pursuant to applicable rules and regulations established by the State Department of Mental Health or the State Department of Developmental Services, the medical director of a state

hospital for the mentally disordered or developmentally disabled may receive in such hospital, as a boarder and patient, any person who is a suitable person for care and treatment in such hospital, upon receipt of a written application for the admission of the person into the hospital for care and treatment made in accordance with the following requirements:

(a) In the case of an adult person, the application shall be made voluntarily by the person, at a time when he is in such condition of mind as to render him competent to make it or, if he is a conservatee with a conservator of the person or person and estate who was appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5358 to place his conservatee in a state hospital, by his conservator.

(b) In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, conservator, or other person entitled to his custody to any of such mental hospitals as may be designated by the Director of Mental Health or the Director of Developmental Services to admit minors on voluntary applications. If the minor has a conservator of the person, or the person and the estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place the conservatee in a state hospital the application for the minor shall be made by his conservator.

Any such person received in a state hospital shall be deemed a voluntary patient.

Upon the admission of a voluntary patient to a state hospital the medical director shall immediately forward to the office of the State Department of Mental Health or the State Department of Developmental Services the record of such voluntary patient, showing the name, residence, age, sex, place of birth, occupation, civil condition, date of admission of such patient to such hospital, and such other information as is required by the rules and regulations of the department.

The charges for the care and keeping of a mentally disordered person in a state hospital shall be governed by the provisions of Article 4 (commencing with Section 7275) of Chapter 3 of Division 7 relating to the charges for the care and keeping of mentally disordered persons in state hospitals.

A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, conservator, or other person entitled to the custody of the minor, of their desire

to remove him from the hospital.

No person received into a state hospital, private mental institution, or county psychiatric hospital as a voluntary patient during his minority shall be detained therein after he reaches the age of majority, but any such person, after attaining the age of majority, may apply for admission into the hospital or institution for care and treatment in the manner prescribed in this section for applications by adult persons.

The State Department of Mental Health or the State Department of Developmental Services shall establish such rules and regulations as are necessary to carry out properly the provisions of this section.

(Amended by Stats. 1980, Ch. 676, Sec. 340.)

6000.5. Pursuant to Section 6000, the medical director of a state hospital for the developmentally disabled may receive in such hospital, as a boarder and patient, any developmentally disabled person as defined in Section 4512 who has been referred in accordance with Sections 4652, 4653, and 4803.

(Amended by Stats. 1979, Ch. 373.)

6001. Admissions to the Langley Porter Neuropsychiatric Institute or to the Neuropsychiatric Institute, U.C.L.A. Medical Center, may be on a voluntary basis after approval by the medical superintendent of the clinic or institute, as the case may be.

(Repealed and added by Stats. 1967, Ch. 1667.)

6002. The person in charge of any private institution, hospital, clinic, or sanitarium which is conducted for, or includes a department or ward conducted for, the care and treatment of persons who are mentally disordered may receive therein as a voluntary patient any person suffering from a mental disorder who is a suitable person for care and treatment in the institution, hospital, clinic, or sanitarium who voluntarily makes a written application to the person in charge for admission into the institution, hospital, clinic, or sanitarium, and who is at the time of making the application mentally competent to make the application. A conservatee, with a conservator of the person, or person and estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place his conservatee, may be admitted upon written application by his conservator.

After the admission of a voluntary patient to a private institution, hospital, clinic, or sanitarium the person in charge shall forward to the office of the State Department of Mental Health a record of the voluntary patient showing such information as may be required by rule by the department.

A voluntary adult patient may leave the hospital, clinic,

or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

(Amended by Stats. 1977, Ch. 1252.)

6002.10. Any facility licensed under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, to provide inpatient psychiatric treatment, excluding state hospitals, and county hospitals, shall establish admission procedures for minors who meet the following criteria:

(a) The minor is 14 years of age and over, and is under 18 years of age.

(b) The minor is not legally emancipated.

(c) The minor is not detained under Sections 5585.50 and 5585.53.

(d) The minor is not voluntarily committed pursuant to Section 6552.

(e) The minor has not been declared a dependent of the juvenile court pursuant to Section 300 or a ward of the court pursuant to Section 602. The minor's admitting diagnosis or condition is either of the following:

(1) A mental disorder only. Although resistance to treatment may be a product of a mental disorder, the resistance shall not, in itself, imply the presence of a mental disorder or constitute evidence that the minor meets the admission criteria. A minor shall not be considered mentally disordered solely for exhibiting behaviors specified under Sections 601 and 602.

(2) A mental disorder and a substance abuse disorder.

(Added by Stats. 1989, Ch. 1375, Sec. 2.)

6002.15. (a) Prior to accepting the written authorization for treatment, the facility shall assure that a representative of the facility has given a full explanation of the treatment philosophy of the facility, including, where applicable, the use of seclusion and restraint, the use of medication, and the degree of involvement of family members in the minor's treatment to the parent, guardian or other person entitled to the minor's custody. This explanation shall be given orally and in writing, and shall be documented in the minor's treatment record upon completion.

(b) As part of the admission process, the professional person responsible for the minor's admission shall affirm in writing that the minor meets the admission criteria as specified above.

(c) Upon admission, a facility specified in Section 6002.10 shall do all of the following:

(1) Inform the minor in writing of the availability of an independent clinical review of his or her further inpatient treatment. The notice shall be witnessed and signed by an appropriate representative of the facility.

(2) Within one working day, notify the patients' rights advocate, as defined in Article 2 (commencing with Section 5540) of Chapter 5.2, regarding the admission of the minor.

(3) Provide all minors with a booklet promulgated by the State Department of Mental Health outlining the specific rights of minors in mental health facilities. The booklet shall include the phone number of the local advocate and the hours that he or she may be reached.

(Added by Stats. 1989, Ch. 1375, Sec. 2.5.)

6002.20. (a) If the minor requests an independent clinical review of his or her continued inpatient treatment, the patients' rights advocate shall be notified of the request, as soon as practical, but no later than one working day. The role of the advocate shall be to provide information and assistance to the minor relating to the minor's right to obtain an independent clinical review to determine the appropriateness of placement within the facility. The advocate shall conduct his or her activities in a manner least disruptive to patient care in the facility. Nothing in this section shall be construed to limit, or expand, rights and responsibilities the advocate has pursuant to other provisions of law.

(b) An independent review may be requested up to 10 days after admission. At any time the minor may rescind his or her request for a review.

(Added by Stats. 1989, Ch. 1375, Sec. 3.)

6002.25. The independent clinical review shall be conducted by a licensed psychiatrist with training and experience in treating psychiatric adolescent patients, who is a neutral party to the review, having no direct financial relationship with the treating clinician, nor a personal or financial relationship with the patient, or his or her parents or guardian. Nothing in this section shall prevent a psychiatrist affiliated with a health maintenance organization, as defined in subdivision (b) of Section 1373.10 of the Health and Safety Code, from providing the independent clinical review where the admitting, treating, and reviewing psychiatrists are affiliated with a health maintenance organization that predominantly serves members of a prepaid health care service plan. The independent clinical reviewer shall be assigned, on a rotating basis, from a list prepared by the facility, and submitted to the county mental health director prior to March 1, 1990, and annually thereafter, or more frequently when necessary. The county mental health director shall, on an annual basis, or at the request of the facility, review the facility's list of independent clinical reviewers. The county mental health director shall approve or disapprove the list of reviewers within 30 days of submission. If there is no response from the county mental health director, the facility's list shall be deemed approved. If the county mental health director disapproves one or more of the

persons on the list of reviewers, the county mental health director shall notify the facility in writing of the reasons for the disapproval. The county mental health director, in consultation with the facility, may develop a list of one or more additional reviewers within 30 days. The final list shall be mutually agreeable to the county mental health director and the facility. Sections 6002.10 to 6002.40, inclusive, shall not be construed to prohibit the treatment of minors prior to the existence of an approved list of independent clinical reviewers. The independent clinical reviewer may be an active member of the medical staff of the facility who has no direct financial relationship, including, but not limited to, an employment or other contract arrangement with the facility except for compensation received for the service of providing clinical reviews.

(Added by Stats. 1989, Ch. 1375, Sec. 4.)

6002.30. (a) All reasonably available clinical information which is relevant to establishing whether the minor meets the admission criteria pursuant to subdivision (d) of Section 6002.35 shall be considered by the psychiatrist conducting the review. In considering the information presented, the psychiatrist conducting the review shall privately interview the minor, and shall consult the treating clinician to review alternative treatment options which may be suitable for the minor's mental disorder.

(b) If the minor has received medication while an inpatient, the person conducting the review shall be informed of that fact and of the probable effects of the medication. The person presenting the clinical information in favor of inpatient treatment shall also inform the psychiatrist conducting the review of the proposed treatment plan for the minor, and, if known, whether the minor has had any previous independent clinical review at any facility, and the results of that service.

(c) The standard of review shall be whether the minor continues to have a mental disorder, whether further inpatient treatment is reasonably likely to be beneficial to the minor's mental disorder, or whether the placement in the facility represents the least restrictive, most appropriate available setting, within the constraints of reasonably available services, facilities, resources, and financial support, in which to treat the minor.

(d) The review shall take place within five days of the request.

(e) At the review, the minor shall have the right to be present, to be assisted by the advocate, and to question persons recommending inpatient treatment. If the minor is unwilling to attend, the review shall be held in his or her absence with the advocate representing the minor.

(f) The location of the independent clinical review shall be compatible with, and least disruptive of, the treatment being provided to the minor. Independent clinical reviews shall be conducted

at the facility where the minor is treated. The review shall be situated in a location which ensures privacy.

(g) The independent clinical review shall be held in an informal setting so as to minimize the anxiety of both parents and minors and promote cooperation and communication among all interested parties. All parties shall make a reasonable effort to speak in terms the minor can understand and shall explain any terminology with which he or she may not be familiar.

(h) The review may be closed to anyone other than the minor, his or her parents or legal guardian, a representative of the facility, the minor's advocate, the psychiatrist conducting the review and the person presenting information in favor of, or opposition to, the inpatient treatment. The person conducting the review shall have discretion to limit the number of participants and shall keep participants to the minimum time necessary to relate the needed information.

(i) No party shall have legal representation in the review process.

(j) If any of the parties to the independent clinical review do not comprehend the language used at the independent clinical review, it shall be the responsibility of the psychiatrist conducting the independent clinical review to retain an interpreter.

(Added by Stats. 1989, Ch. 1375, Sec. 5.)

6002.35. (a) It shall be the responsibility of the psychiatrist conducting the independent clinical review to keep a record of the proceeding.

(b) After considering all the clinical information, the psychiatrist conducting the review shall render a binding decision. If he or she determines that further inpatient treatment is reasonably likely to be beneficial to the minor's disorder and placement in the facility represents the least restrictive, most appropriate available setting in which to treat the minor, the minor's inpatient treatment shall be authorized.

(c) If the psychiatrist conducting the review determines that the admission criteria have been met, this determination shall terminate when the minor is discharged from the facility.

(d) If the psychiatrist conducting the clinical review determines that further inpatient treatment in the facility is not reasonably likely to be beneficial to the minor's mental disorder or does not represent the least restrictive, most appropriate available setting in which to treat the minor, the minor shall be released from the facility to a custodial parent or guardian on the same day the determination was made. Except as provided in Section 43.92 of the Civil Code, upon the minor's release, neither the attending psychiatrist, any licensed health professional providing treatment to the minor in the facility, the psychiatrist who releases the minor pursuant to this section, nor the facility in which the minor was

admitted or treated shall be civilly or criminally liable for any conduct of the released minor, a parent, legal guardian, or other persons entitled to custody of the minor.

(Added by Stats. 1989, Ch. 1375, Sec. 6.)

6002.40. (a) For any insurance contracts entered into after January 1, 1990, where any private insurer, certified medical plan, or private health service plan is liable to pay or reimburse a professional provider or institutional provider for the costs of medically necessary mental health services provided to the patient, the costs of the clinical review required by Sections 6002.10 to 6002.40, inclusive, including, but not limited to, the costs of the interpreter, if any, and the costs of the patients' rights advocate, shall be borne by the insurer, certified medical plan, or the health service plan. Payments to providers for the costs of the independent clinical review shall be made promptly.

For Medi-Cal eligible patients placed in these private facilities, the costs of the clinical review required by Sections 6002.10 to 6002.40, inclusive, including the costs of the patients rights advocate, shall be borne by the county.

(b) The Legislature intends that Sections 6002.10 to 6002.40, inclusive, affect only the rights of minors confined in private mental health facilities on the consent of their parents or guardians, where the costs of treatment are paid or reimbursed by a private insurer or private health service plan.

(c) Mental health facilities shall summarize on an annual basis, information including, but not limited to, the number of minors admitted by diagnosis, length of stay, and source of payment, the number of requests for an independent clinical review by diagnosis, source of payment, and outcome of the independent clinical review and submit this information to the State Department of Mental Health. This annual summary shall be made available by the facility to the State Department of Health Services which shall monitor compliance of this section during an inspection of the facility pursuant to Sections 1278 and 1279 of the Health and Safety Code.

(d) The State Department of Mental Health, in consultation with appropriate organizations, shall develop nonmandatory guidelines for treatment of mental disorders to be utilized pursuant to this act by January 1, 1991.

(Amended by Stats. 1992, Ch. 713, Sec. 48. Effective September 15, 1992.)

6003. As used in this article, "county psychiatric hospital" means the hospital, ward, or facility provided by the county pursuant to the provisions of Section 7100.

(Repealed and added by Stats. 1967, Ch. 1667.)

6003.1. As used in this article, county psychiatric health

facility means the nonhospital 24-hour acute care facility provided by the county pursuant to the provisions in Sections 5404 and 7100.

(Added by Stats. 1978, Ch. 1234.)

6003.2. Wherever in this article the term "county psychiatric hospital" appears, such term shall be interchangeable with the term "psychiatric health facility."

(Added by Stats. 1978, Ch. 1234.)

6004. The superintendent or person in charge of the county psychiatric hospital may receive, care for, or treat in the hospital any person who voluntarily makes a written application to the superintendent or person in charge thereof for admission into the hospital for care, treatment, or observation, and who is a suitable person for care, treatment, or observation, and who in the case of an adult person is in such condition of mind, at the time of making application for admission, as to render him competent to make such application. In the case of a minor person, the application shall be made by his parents, or by the parent, guardian, or other person entitled to his custody. A conservatee, with a conservator of the person, or person and estate, appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5, with the right as specified by court order under Section 5358 to place his conservatee, may be admitted upon written application by his conservator.

(Amended by Stats. 1970, Ch. 516.)

6005. A voluntary adult patient may leave the hospital or institution at any time by giving notice of his desire to leave to any member of the hospital staff and completing normal hospitalization departure procedures. A conservatee may leave in a like manner if notice is given by his conservator.

A minor person who is a voluntary patient may leave the hospital or institution after completing normal hospitalization departure procedures after notice is given to the superintendent or person in charge by the parents, or the parent, guardian, or other person entitled to the custody of the minor, of their desire to remove him from the hospital.

(Repealed and added by Stats. 1967, Ch. 1667.)

6006. A person admitted as a voluntary patient to a state hospital, a private mental institution, or a county psychiatric hospital shall have the following rights in addition to the right to leave such hospital as specified in this chapter:

(a) He shall receive such care and treatment as his condition requires for the full period that he is a patient;

(b) He shall have the full patient rights specified in Article 7 (commencing with Section 5325) of Chapter 2 of Part 1 of Division 5 of this code.

(Amended by Stats. 1968, Ch. 1374.)

6007. Any person detained as of June 30, 1969, in a private institution, pursuant to former Sections 6030 to 6033, inclusive, as they read immediately preceding July 1, 1969, on the certification of one physician, may be detained after July 1, 1969, for a period no longer than 90 days.

Any person detained as of June 30, 1969, in a private institution, pursuant to such sections, on the certification of two physicians, may be detained after July 1, 1969, for a period no longer than 180 days.

Any person detained pursuant to this section after July 1, 1969, shall be evaluated by the facility designated by the county and approved by the State Department of Mental Health pursuant to Section 5150 as a facility for 72-hour treatment and evaluation. Such evaluation shall be made at the request of the person in charge of the private institution in which the person is detained or by one of the physicians who signed the certificate. If in the opinion of the professional person in charge of the evaluation and treatment facility or his designee, the evaluation of the person can be made by such professional person or his designee at the private institution in which the person is detained, the person shall not be required to be evaluated at the evaluation and treatment facility, but shall be evaluated at the private institution to determine if the person is a danger to others, himself, or gravely disabled as a result of mental disorder.

Any person evaluated under this section shall be released from the private institution immediately upon completion of the evaluation if in the opinion of the professional person in charge of the evaluation and treatment facility, or his designee, the person evaluated is not a danger to others, or to himself, or gravely disabled as a result of mental disorder, unless the person agrees voluntarily to remain in the private institution.

If in the opinion of the professional person in charge of the facility or his designee, the person evaluated requires intensive treatment or recommendation for conservatorship, such professional person or his designee shall proceed under Article 4 (commencing with Section 5250) of Chapter 2, or under Chapter 3 (commencing with Section 5350), of Part 1 of Division 5.

(Amended by Stats. 1977, Ch. 1252.)

6008. For the purposes of this part, a person who is a conservatee with a conservator of the person or of the person and estate appointed under Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 with the right as specified by court order under Section 5358 to place his conservatee in a hospital of the United States government, may be admitted to such a hospital upon written application made by his conservator. A conservatee so admitted to

such a hospital may leave the hospital at any time after his conservator gives notice to a member of the hospital staff that the conservatee is leaving and normal hospitalization departure procedures are completed by the conservator or by the conservator and conservatee.

(Amended by Stats. 1970, Ch. 516.)

PART 2. JUDICIAL COMMITMENTS

(Part 2 added by Stats. 1967, Ch. 1667.)

CHAPTER 1. DEFINITIONS, CONSTRUCTION AND STANDARD FORMS

(Chapter 1 added by Stats. 1967, Ch. 1667.)

6250. As used in this part, "persons subject to judicial commitment" means persons who may be judicially committed under this part as mentally disordered sex offenders pursuant to Article 1 (commencing with Section 6300) or mentally retarded persons pursuant to Article 2 (commencing with Section 6500) of Chapter 2 of this part.

Nothing in this part shall be held to change or interfere with the provisions of the Penal Code and other laws relating to mentally disordered persons charged with crime or to the criminally insane.

This part shall be liberally construed so that, as far as possible and consistent with the rights of persons subject to commitment, such persons shall be treated, not as criminals, but as sick persons.

(Amended by Stats. 1979, Ch. 373.)

6251. Wherever, on the basis of a petition, provision is made in this code for issuing and delivering an order for examination and detention directing that a person be apprehended and taken before a judge of a superior court for a hearing and examination on an allegation of being a person subject to judicial commitment, the petition shall be in substantially the following form:

In the Superior Court of the State of California
For the County of _____

_____

The People)
For the Best Interest and Protection of)
_____)
as a _____)
and Concerning) Petition
_____ and)

_____)
Respondents)
_____)
_____, residing at _____ (tel. _____), being duly sworn deposes and says: That there is now in the county in the City or Town of _____ a person named ____, who resides at ____, and who is believed to be a ____. That the person is ____ years of age; that _he is ____ (sex) and that _he is ____ (single, married, widowed, or divorced); and that ____ occupation is ____.

That the facts because of which petitioner believes that the person is a ____ are as follows: That _he, at ____ in the county, on the ____ day of ____, 19__,

_____

That petitioner's interest in and case is _____

_____

That petitioner believes that said person is ____ as defined in Section ____.

That the persons responsible for the care, support, and maintenance of the ____, and their relationship to the person are, so far as known to the petitioner, as follows: (Give names, addresses, and relationship of persons named as respondents) Wherefore, petitioner prays that examination be made to determine the state of the mental health of ____, alleged to be ____, and that such measures be taken for the best interest and protection of said ____, in respect to his supervision, care and treatment, as may be necessary and provided by law.

_____

Petitioner

Subscribed and sworn to before me this ____ day of _____, 19__.

_____, County Clerk

By _____ Deputy

(Amended by Stats. 1968, Ch. 1374.)

6252. Wherever provision is made in this code for a judge of a superior court to issue and deliver an order for examination or detention directing that a person be apprehended and taken before a judge of a superior court for a hearing and examination on an allegation of being a person subject to judicial commitment, the order for examination or detention shall be in substantially the following form:

_____

The People)

For the Best Interest and Protection of)
_____) Order
as a _____) for
and Concerning) Examination
_____ and) or
_____) Detention
Respondents)
_____)

The People of the State of California _____
_____
(peace officer)

The petition for ____ having been presented this day to me, a Judge of the Superior Court in and for the County of ____, State of California, from which it appears that there is now in this county, at ____, a person by the name of ____, who is a ____.

And it satisfactorily appears to me that said person is sufficiently ____ that examination should be made and hearing held, if demanded, to determine the supervision, treatment, care or restraint, if any, necessary for his best interest and protection, and the protection of the people.

I do hereby appoint ____ and ____ as medical examiners to make a personal examination of ____, the person alleged to be ____, and to report thereon to the court, pursuant to Section ____ of the Welfare and Institutions Code.

*Now, therefore, you are commanded to notify said ____, to submit to an examination ____ on or before the ____ day of ____, that thereafter he may be taken before a judge of the superior court in this county for examination and hearing to determine the measures to be taken for the best interest and protection of said ____, as a ____, as provided by law.

*And it affirmatively appearing to me that said person is sufficiently ____ that he is likely to injure himself or others if not immediately hospitalized or detained, you are therefore commanded to forthwith detain said ____, or cause him to be detained for examination and hearing, pending the further order of the judge, at ____, and there be cared for in a humane manner as a ____ and provided with any medical treatment deemed necessary to his physical well-being.

*And it satisfactorily appearing to me that said person has failed or has refused to appear for examination when notified by order of this court, you are therefore commanded to forthwith detain said ____ or

cause him to be detained for examination and hearing, pending the further order of the judge, at ____, and there be cared for in a humane manner as a ____.

I hereby direct that a copy of this order, together with a copy of the said petition be delivered to said person and his representative, if any, at the time of his notification; and I further direct that this order may be served at any hour of the night.

Witness my hand, this ____ day of ____, 19__.

_____

Judge of the Superior Court

*Strike out when not applicable.

Return of Order

I hereby certify that I received the above order for examination or detention, and on the ____ day of ____, 19__, served it by notifying and delivering to said ____ personally, and to his representatives, if any, to wit, ____, a copy of the order and of the petition, *or by apprehending said person and causing h__ to be detained for examination and hearing and for humane care as an alleged ____ at ____; until further ordered and directed by the judge.

*I hereby certify that prior to the service of the above order for detention and the apprehension of ___ I served notice on the person and his representative, if any, as required under Article 2 (commencing with Section 5200) of Chapter 2 of Part 1 of Division 5 of the Welfare and Institutions Code.

Dated ____, 19__.

_____

Signature of officer

*Strike out when not applicable.

(Amended by Stats. 1968, Ch. 1374.)

6253. Wherever provision is made in this code for court-appointed medical examiners to make and sign a certificate showing the facts of an examination in the case of a person alleged to be subject to judicial commitment, the certificate shall be in substantially the following form:

In the Superior Court of the State of California
for the County of _____

_____

The People)
For the Best Interest and)
Protection of _____,)
as a _____) Certificate

and Concerning) of Medical
_____,) Examiners
and _____,)
Respondents)
_____)

We, Dr. ____ and Dr. ____, medical examiners in the County of ____, duly appointed and certified as such, do hereby certify under our hands that we have examined ____, alleged to be a ____, and have attended before a judge of said court at the hearing on the petition concerning said person, and have heard the testimony of all witnesses, and, as a result of the examination, have testified under oath before the court to the following facts concerning the alleged _____:

Name
_____

Address
_____

Age _____ Sex
_____

Occupation _____ Marital status
_____
(Single, married, widowed, divorced)

Religious belief
_____

Pertinent case history
_____

_____
_____

_____
_____

General physical condition
_____

_____
_____

Present mental status
_____

_____
_____

_____
_____

Laboratory reports (if any)
_____

_____

Tentative diagnosis of mental health

_____

_____

_____

_____

Recommendation for disposition or supervision, treatment and care ___

_____

_____

_____

_____

Reasons for the recommendation

_____

_____

_____

_____

_____

_____

Date _____

_____

Medical Examiner

_____

Medical Examiner

(Repealed and added by Stats. 1967, Ch. 1667.)

6254. Wherever provision is made in this code for an order of commitment by a superior court, the order of commitment shall be in substantially the following form:

In the Superior Court of the State of California
for the County of ____

_____

The People)
For the Best Interest and)
Protection of _____)
as a _____,) Order for Care,
) Hospitalization

and Concerning) or Commitment
_____ and)
_____, Respondents)
_____)

The petition dated ____, alleging that ____, having been presented to this court on the ____ day of ____, 19_, and an order of detention issued thereon by a judge of the superior court of this county, and a return of the said order:

And it further appearing that the provisions of Sections 6250 to 6254, inclusive, of the Welfare and Institutions Code have been complied with;

And it further appearing that Dr. ____ and Dr. ____, two regularly appointed and qualified medical examiners of this county, have made a personal examination of the alleged ____, and have made and signed the certificate of the medical examiners, which certificate is attached hereto and made a part hereof;

Now therefore, after examination and certificate made as aforesaid the court is satisfied and believes that ____ is a ____ and is so ____.

It is ordered, adjudged and decreed:

That ____ is a ____ and that _he

* (a) Be cared for and detained in ____, a county psychiatric hospital, a community mental health service, or a licensed sanitarium or hospital for the care of the mentally disordered until the further order of the court, or

* (b) Be cared for at ____, until the further order of the court, or

* (c) Be committed to the State Department of Mental Health for placement in a state hospital, or

* (d) Be committed to a facility of the Veterans Administration or other agency of the United States, to wit: _____ at ____.

It is further ordered and directed that ____ of this county, take, convey and deliver ____ to the proper authorities of the hospital or establishment designated herein to be cared for as provided by law.

Dated this ____ day of ____, 19_.

_____

Judge of the Superior Court

* Strike out where inapplicable.

(Amended by Stats. 1988, Ch. 113, Sec. 22. Effective May 25, 1988. Operative July 1, 1988, by Sec. 23 of Ch. 113.)

CHAPTER 2. COMMITMENT CLASSIFICATION

(Chapter 2 added by Stats. 1967, Ch. 1667.)

[Article 1. Mentally Disordered Sex Offenders]
(Article 1 added by Stats. 1967, Ch. 1667.
Repealed January 1, 1982, by Stats. 1981, Ch. 928.
Note: At time of repeal, this article comprised Sections 6300 to 6330.)

6331. This article shall become inoperative the day after the election at which the electors adopt this section, except that the article shall continue to apply in all respects to those already committed under its provisions.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

(Added June 8, 1982, by initiative Proposition 8, Sec. 9. Note: This section relates to the Article 1 (Sections 6300 to 6330) that was repealed Jan. 1, 1982, by Stats. 1981, Ch. 928.)

6332. For a person committed as a mentally disordered sex offender, whose term of commitment has been extended pursuant to former Section 6316.2, and who is placed on outpatient status pursuant to Section 1604 of the Penal Code, time spent on outpatient status, except when placed in a locked facility at the direction of the outpatient supervisor, shall not count as actual custody and shall not be counted toward the person's maximum term of commitment or toward the person's term of extended commitment.

(Added by Stats. 1994, 1st Ex. Sess., Ch. 9, Sec. 3. Effective November 30, 1994. Note: This section relates to subject matter of Article 1 prior to its Jan. 1, 1982, repeal by Stats. 1981, Ch. 928.)

Article 2. Mentally Retarded Persons
(Heading of Article 2 renumbered from Article 5 by Stats. 1979, Ch. 373.)

6500. On and after July 1, 1971, no mentally retarded person may be committed to the State Department of Developmental Services pursuant to this article, unless he or she is a danger to himself or herself or others. For the purposes of this article, dangerousness to self or others shall be considered to include, but not be limited to, a finding of incompetence to stand trial pursuant to the provisions of Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with murder, mayhem, aggravated mayhem, a violation of Section 207,

209, or 209.5 of the Penal Code in which the victim suffers intentionally inflicted great bodily injury, robbery perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, carjacking perpetrated by torture or by a person armed with a dangerous or deadly weapon or in which the victim suffers great bodily injury, a violation of subdivision (b) of Section 451 of the Penal Code, a violation of paragraph (2) or (3) of subdivision (a) of Section 261 of the Penal Code, a violation of Section 459 of the Penal Code in the first degree, assault with intent to commit murder, a violation of Section 220 of the Penal Code in which the victim suffers great bodily injury, a violation of Section 12303.1, 12303.3, 12308, 12309, or 12310 of the Penal Code, or if the defendant has been charged with a felony involving death, great bodily injury, or an act which poses a serious threat of bodily harm to another person.

Any order of commitment made pursuant to this article shall expire automatically one year after the order of commitment is made. This section shall not be construed to prohibit any party enumerated in Section 6502 from filing subsequent petitions for additional periods of commitment. In the event such subsequent petitions are filed, the procedures followed shall be the same as with an initial petition for commitment.

In any proceedings conducted under the authority of this article the alleged mentally retarded person shall be informed of his or her right to counsel by the court; and if the person does not have an attorney for the proceedings the court shall immediately appoint the public defender or other attorney to represent him or her. The person shall pay the cost for such legal service if he or she is able to do so. At any judicial proceeding under the provisions of this article, allegations that a person is mentally retarded and a danger to himself or herself or to others shall be presented by the district attorney for the county unless the board of supervisors, by ordinance or resolution, delegates this authority to the county counsel.

(Amended by Stats. 1994, Ch. 224, Sec. 10. Effective January 1, 1995.)

6502. A petition for the commitment of a mentally retarded person to the State Department of Developmental Services who has been found incompetent to stand trial pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 of the Penal Code when the defendant has been charged with one or more of the offenses identified or described in Section 6500, may be filed in the superior court of the county that determined the question of mental competence of the defendant. All other petitions may be filed in the county in which that person is physically present. The following persons may request the person authorized to present allegations pursuant to Section 6500 to file a petition for commitment:

(a) The parent, guardian, conservator, or other person

charged with the support of the mentally retarded person.

(b) The probation officer.

(c) The Youth Authority.

(d) Any person designated for that purpose by the judge of the court.

(e) The Director of Corrections.

(f) The regional center director or his or her designee.

The request shall state the petitioner's reasons for supposing the person to be eligible for admission thereto, and shall be verified by affidavit.

(Amended by Stats. 1992, Ch. 722, Sec. 30. Effective September 15, 1992.)

6503. The court shall fix a time and place for the hearing of the petition. The time for the hearing shall be set no more than 60 days after the filing of the petition. The court may grant a continuance only upon a showing of good cause. The hearing may, in the discretion of the court, be held at any place which the court deems proper, and which will give opportunity for the production and examination of witnesses.

(Amended by Stats. 1980, Ch. 859, Sec. 3.)

6504. In all cases the court shall require due notice of the hearing of the petition to be given to the alleged mentally retarded person. Whenever a petition is filed, the court shall require such notice of the hearing of the petition as it deems proper to be given to any parent, guardian, conservator, or other person charged with the support of the person mentioned in the petition.

(Amended by Stats. 1979, Ch. 730.)

6504.5. Wherever a petition is filed pursuant to this article, the court shall appoint the director of a regional center for the developmentally disabled established under Division 4.5 of this code, or the designee of the director, to examine the alleged mentally retarded person.

Within 15 judicial days after his appointment, the regional center director or designee shall submit to the court in writing a report containing his evaluation of the alleged mentally retarded person. The report shall contain a recommendation of a facility or facilities in which the alleged developmentally disabled person may be placed.

The report shall include a description of the least restrictive residential placement necessary to achieve the purposes of treatment.

(Added by Stats. 1978, Ch. 1319.)

6505. Whenever the court considers it necessary or advisable, it may cause an order to issue for the apprehension and delivery to the court of the alleged mentally retarded person, and may

have the order executed by any peace officer.

(Added by Stats. 1967, Ch. 1667.)

6506. Pending the hearing, the court may order that the alleged dangerous mentally retarded person may be left in the charge of his or her parent, guardian, conservator, or other suitable person, or placed in a state hospital for the developmentally disabled or in the county psychiatric hospital. Prior to the issuance of an order under this section, the regional center shall recommend to the court a suitable person or facility to care for the alleged mentally retarded person.

Pending the hearing the court may order that the person receive necessary habilitation, care, and treatment, including medical and dental treatment.

Orders made pursuant to this section shall expire at the time set for the hearing pursuant to Section 6503. If the court upon a showing of good cause grants a continuance of the hearing on the matter, it shall order that the person be detained pursuant to this section until the hearing on the petition is held.

(Amended by Stats. 1980, Ch. 859, Sec. 4.)

6507. The court shall inquire into the condition or status of the alleged mentally retarded person. For this purpose it may by subpoena require the attendance before it of a physician who has made a special study of mental retardation and is qualified as a medical examiner, and of a clinical psychologist, or of two such physicians, or of two such psychologists, to examine the person and testify concerning his mentality. The court may also by subpoena require the attendance of such other persons as it deems advisable, to give evidence.

(Added by Stats. 1967, Ch. 1667.)

6508. Each psychologist and physician shall receive for each attendance mentioned in Section 6507 the sum of five dollars ($5) for each person examined, together with his necessary actual expenses occasioned thereby, and other witnesses shall receive for such attendance such fees and expenses as the court in its discretion allows, if any, not exceeding the fees and expenses allowed by law in other cases in the superior court.

Any fees or traveling expenses payable to a psychologist, physician, or witness as provided in this section and all expenses connected with the execution of any process under the provisions of this article, which are not paid by the parent, guardian, conservator, or person charged with the support of the supposed mentally retarded person, shall be paid by the county treasurer of the county in which the person resides, upon the presentation to the treasurer of a certificate of the judge that the claimant is entitled thereto.

(Amended by Stats. 1979, Ch. 730.)

6509. If the court finds that the person is mentally retarded, and that he is a danger to himself or to others, the court may make an order that the person be committed to the State Department of Developmental Services for suitable treatment and habilitation services. Suitable treatment and habilitation services is defined as the least restrictive residential placement necessary to achieve the purposes of treatment. Care and treatment of a person committed to the State Department of Developmental Services may include placement in any state hospital, any licensed community care facility as defined in Section 1504, or any health facility as defined in Section 1250. The court shall hold a hearing as to the available placement alternatives and consider the report of the regional center director or designee submitted pursuant to Section 6504.5. After hearing all the evidence the court shall order that the person be committed to that placement which the court finds to be the most appropriate alternative. The court, however, may commit a mentally retarded person who is not a resident of this state under Section 4460 for the purpose of transportation of such person to the state of his legal residence pursuant to Section 4461. The State Department of Developmental Services shall receive the person committed to it and shall place the person in the placement ordered by the court.

If the Department of Developmental Services decides that a change in placement is necessary, it shall notify in writing the court of commitment, the district attorney and the attorney of record for the person and the regional center of such decision at least 15 days in advance of the proposed change in placement. The court may hold a hearing and (1) approve or disapprove of the change, or (2) take no action in which case the change shall be deemed approved. At the request of the district attorney or of the attorney for the person, a hearing shall be held.

(Amended by Stats. 1980, Ch. 676, Sec. 341.)

6510. In case of the dismissal of the petition, the court may, if it considers the petition to have been filed with malicious intent, order the petitioner to pay the expenses in connection therewith, and may enforce such payment by such further orders as it deems necessary.

(Added by Stats. 1967, Ch. 1667.)

6511. Any person who knowingly contrives to have any person adjudged mentally retarded under the provisions of this article, unlawfully or improperly, is guilty of a misdemeanor.

(Added by Stats. 1967, Ch. 1667.)

6512. If, when a boy or girl is brought before a juvenile court under the juvenile court law, it appears to the court, either before or after adjudication, that the person is mentally retarded, or

if, on the conviction of any person of crime by any court it appears to the court that the person is mentally retarded, the court may adjourn the proceedings or suspend the sentence, as the case may be, and direct some suitable person to take proceedings under this article against the person before the court, and the court may order that, pending the preparation, filing, and hearing of the petition, the person before the court be detained in a place of safety, or be placed under the guardianship of some suitable person, on his entering into a recognizance for the appearance of the person upon trial or under conviction when required. If, upon the hearing of the petition, or upon a subsequent hearing, the person upon trial or under conviction is not found to be mentally retarded, the court may proceed with the trial or impose sentence, as the case may be.

(Added by Stats. 1967, Ch. 1667.)

6513. (a) The State Department of Developmental Services shall pay for the costs as defined in this section of judicial proceedings, including commitment, placement, or release, under this article under the following conditions:

(1) The judicial proceedings are in a county within which a state hospital maintains a treatment program for mentally retarded persons who are a danger to themselves or others; and

(2) The judicial proceedings relate to a mentally retarded person who is at the time residing in the state hospital.

(b) The county clerk of a county described in subdivision (a) may make out a statement of all costs incurred by the county in the investigation, preparation for, and conduct of such proceeding, including any costs of the district attorney or county counsel and any public defender or court-appointed counsel representing such person, and including any costs incurred by the county for the guarding or keeping of such person while away from the state hospital and for transportation of such person to and from the hospital. Such statement shall be certified to by a judge of the superior court and shall be sent to the State Department of Developmental Services. In lieu of sending statements after each proceeding, such statements may be held and submitted quarterly for the preceding three-month period.

(Added by Stats. 1980, Ch. 644, Sec. 1.)

Article 3. Juvenile Court Wards

(Heading of Article 3 renumbered from Article 6 by Stats. 1980, Ch. 676, Sec. 342.)

6550. If the juvenile court, after finding that the minor is a person described by Section 300, 601, or 602, is in doubt concerning the state of mental health or the mental condition of the person, the court may continue the hearing and proceed pursuant to

this article.

(Amended by Stats. 1989, Ch. 1360, Sec. 163.)

6551. If the court is in doubt as to whether the person is mentally disordered or mentally retarded, the court shall order the person to be taken to a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation. Thereupon, Article 1 (commencing with Section 5150) of Chapter 2 of Part 1 of Division 5 applies, except that the professional person in charge of the facility shall make a written report to the court concerning the results of the evaluation of the person's mental condition. If the professional person in charge of the facility finds the person is, as a result of mental disorder, in need of intensive treatment, the person may be certified for not more than 14 days of involuntary intensive treatment if the conditions set forth in subdivision (c) of Section 5250 and subdivision (b) of Section 5260 are complied with. Thereupon, Article 4 (commencing with Section 5250) of Chapter 2 of Part 1 of Division 5 shall apply to the person. The person may be detained pursuant to Article 4.5 (commencing with Section 5260), or Article 4.7 (commencing with Section 5270.10), or Article 6 (commencing with Section 5300) of Part 1 of Division 5 if that article applies.

If the professional person in charge of the facility finds that the person is mentally retarded, the juvenile court may direct the filing in any other court of a petition for the commitment of a minor as a mentally retarded person to the State Department of Developmental Services for placement in a state hospital. In such case, the juvenile court shall transmit to the court in which the petition is filed a copy of the report of the professional person in charge of the facility in which the minor was placed for observation. The court in which the petition for commitment is filed may accept the report of the professional person in lieu of the appointment, or subpoenaing, and testimony of other expert witnesses appointed by the court, if the laws applicable to such commitment proceedings provide for the appointment by court of medical or other expert witnesses or may consider the report as evidence in addition to the testimony of medical or other expert witnesses.

If the professional person in charge of the facility for 72-hour evaluation and treatment reports to the juvenile court that the minor is not affected with any mental disorder requiring intensive treatment or mental retardation, the professional person in charge of the facility shall return the minor to the juvenile court on or before the expiration of the 72-hour period and the court shall proceed with the case in accordance with the Juvenile Court Law.

Any expenditure for the evaluation or intensive treatment of a minor under this section shall be considered an expenditure made under Part 2 (commencing with Section 5600) of Division 5 and shall be reimbursed by the state as are other local expenditures pursuant to

that part.

The jurisdiction of the juvenile court over the minor shall be suspended during such time as the minor is subject to the jurisdiction of the court in which the petition for postcertification treatment of an imminently dangerous person or the petition for commitment of a mentally retarded person is filed or under remand for 90 days for intensive treatment or commitment ordered by such court.

(Amended by Stats. 1988, Ch. 1517, Sec. 16.)

6552. A minor who has been declared to be within the jurisdiction of the juvenile court may, with the advice of counsel, make voluntary application for inpatient or outpatient mental health services in accordance with Section 5003. Notwithstanding the provisions of subdivision (b) of Section 6000, Section 6002, or Section 6004, the juvenile court may authorize the minor to make such application if it is satisfied from the evidence before it that the minor suffers from a mental disorder which may reasonably be expected to be cured or ameliorated by a course of treatment offered by the hospital, facility or program in which the minor wishes to be placed; and that there is no other available hospital, program, or facility which might better serve the minor's medical needs and best interest. The superintendent or person in charge of any state, county, or other hospital facility or program may then receive the minor as a voluntary patient. Applications and placements under this section shall be subject to the provisions and requirements of the Short-Doyle Act (Part 2 (commencing with Section 5600), Division 5), which are generally applicable to voluntary admissions.

If the minor is accepted as a voluntary patient, the juvenile court may issue an order to the minor and to the person in charge of the hospital, facility or program in which the minor is to be placed that should the minor leave or demand to leave the care or custody thereof prior to the time he is discharged by the superintendent or person in charge, he shall be returned forthwith to the juvenile court for a further dispositional hearing pursuant to the juvenile court law.

The provisions of this section shall continue to apply to the minor until the termination or expiration of the jurisdiction of the juvenile court.

(Added by Stats. 1976, Ch. 445.)

CHAPTER 3. EXPENSE OF DETENTION OR PROCEEDINGS CONCERNING COMMITMENTS

(Chapter 3 added by Stats. 1967, Ch. 1667.)

Article 4. Mentally Retarded Persons

(Article 4 added by Stats. 1967, Ch. 1667.)

6715. The court shall inquire into the financial condition of the parent, guardian, or other person charged with the support of any person committed as mentally retarded person, and if it finds him able to do so, in whole or in part, it shall make a further order, requiring him to pay, to the extent the court considers him able to pay, the expenses of the proceedings in connection with the investigation, detention, and commitment of the person committed, and the expenses of his delivery to the institution, and to pay to the county, at stated periods, such sums as the court deems proper, during such time as the person remains in the institution or on leave of absence to a licensed hospital, facility or home for the care of such persons. This order may be enforced by such further orders as the court deems necessary, and may be varied, altered, or revoked in its discretion.

The court shall designate some county officer to keep a record of such payments ordered to be made, to receive, receipt for, and record such payments made, to pay over such payments to the county treasurer, to see that the persons ordered to make such payments comply with such orders, and to report to the court any failure on the part of such persons to make such payments.

(Added by Stats. 1967, Ch. 1667.)

6716. In any case in which the probation officer is charged with the duty of collecting amounts payable to the county under this article, upon the verified application of the probation officer the board of supervisors may make an order discharging the probation officer from further accountability for the collection of any such amount in any case as to which the board determines that the amount is too small to justify the cost of collection; that the statute of limitations has run; or that the collection of such amount is improbable for any reason. Such order is authorization for the probation officer to close his books in regard to such item, but such discharge of accountability of the probation officer does not constitute a release of any person from liability for payment of any such amount which is due and owing to the county. The board may request a written opinion from the district attorney or county counsel as to whether any particular amount is too small to justify the cost of collection, whether the statute of limitations has run, or whether collection of any particular item is improbable.

(Added by Stats. 1967, Ch. 1667.)

6717. The cost necessarily incurred in determining whether a person is a fit subject for admission to a home for the mentally retarded and securing his admission thereto, is a charge upon the county whence he is committed. Such costs include the fees of witnesses, medical examiners, psychiatrists and psychologists allowed by the judge ordering the examination. If the person sought to be committed is not an indigent person, the costs of the proceedings are

the obligation of such person and shall be paid by him, or by the guardian or conservator of his estate as provided in Division 4 (commencing with Section 1400) of the Probate Code, or shall be paid by persons legally liable for his maintenance, unless otherwise ordered by the judge.

(Amended by Stats. 1979, Ch. 730.)

6718. The State Department of Mental Health shall present to the county, not more frequently than monthly, a claim for the amount due the state by reason of commitments of the mentally retarded which the county shall process and pay pursuant to the provisions of Chapter 4 (commencing with Section 29700) of Division 3 of Title 3 of the Government Code.

(Amended by Stats. 1977, Ch. 1252.)

CHAPTER 4. EXECUTION OF COMMITMENT ORDERS

(Chapter 4 added by Stats. 1967, Ch. 1667.)

Article 4. Mentally Retarded Persons

(Article 4 added by Stats. 1967, Ch. 1667.)

6740. The court shall attach to the order of commitment of a mentally retarded person its findings and conclusions, together with all the social and other data it has bearing upon the case, and the same shall be delivered to the home with the order.

(Added by Stats. 1967, Ch. 1667.)

6741. The sheriff or probation officer, whichever may be designated by the court, may execute the order of commitment with respect to any mentally retarded person.

In any case in which the probation officer executes the order of commitment, he shall be compensated for transporting such person to a state hospital in the amount and manner in which a sheriff is compensated for similar services.

(Added by Stats. 1967, Ch. 1667.)

Article 5. Medical Examiners

(Heading of Article 5 added by Stats. 1968, Ch. 1374.)

6750. The superior court judge of each county may grant certificates in accordance with the form prescribed by the State Department of Mental Health, showing that the persons named therein

are reputable physicians licensed in this state, and have been in active practice of their profession at least five years. When certified copies of such certificates have been filed with the department, it shall issue to such persons certificates or commissions, and the persons therein named shall be known as "medical examiners." There shall at all times be at least two such medical examiners in each county. The certificate may be revoked by the department for incompetency or neglect, and shall not be again granted without the consent of the department.

(Amended by Stats. 1977, Ch. 1252.)

6751. The department shall keep in its office a record showing the name, residence, and certificate of each duly qualified medical examiner. Immediately upon the receipt of each duly certified copy of a medical examiner's certificate, it shall file the same, and advise him of its receipt and filing.

(Added by Stats. 1967, Ch. 1667.)

CHAPTER 6. COUNSELORS IN MENTAL HEALTH

(Chapter 6 added by Stats. 1967, Ch. 1667.)

6775. The office of counselor in mental health may be created in any county in this state by the board of supervisors thereof. The counselors in mental health to serve under the provisions of this chapter shall be nominated and appointed by the judge of the superior court by written order entered in the minutes of the court.

(Added by Stats. 1967, Ch. 1667.)

6776. In each county where the office of counselor in mental health has been created under the provisions of this chapter, the judge of the superior court may appoint two such counselors. In counties of the first class having a charter the numbers, compensation and benefits of officers and employees shall be as provided in Section 69894.1 of the Government Code.

(Added by Stats. 1967, Ch. 1667.)

6777. The term of office of the counselors in mental health shall be during the pleasure of the court, and they may at any time be removed by the court in its discretion. Such counselors shall devote their entire time and attention to the duties of their office.

(Added by Stats. 1967, Ch. 1667.)

6778. The counselor in mental health may perform such services as are designated by the county. Every counselor, assistant counselor, and deputy counselor in mental health shall have the powers of a peace officer.

(Amended by Stats. 1968, Ch. 1374.)

6779. Wherever in this code or in any other statute reference is made to psychopathic probation officers, such reference shall be deemed to mean and refer to the counselors in mental health provided for in this chapter; and wherever in this code or in any other statute reference is made to probation of incompetent persons, such reference shall mean and refer to supervision of such persons.

(Added by Stats. 1967, Ch. 1667.)

CHAPTER 7. DUTIES OF PEACE OFFICERS

(Chapter 7 added by Stats. 1967, Ch. 1667.)

6800. All peace officers and other persons having similar duties relating to judicially committed poor persons shall see that all poor and indigent committed persons within their respective municipalities are speedily granted the relief conferred by this part. When so ordered by a superior court judge, they shall see that such committed persons are, without unnecessary delay, transferred to the proper state hospitals provided for their care and treatment. Before sending a person to any such hospital, they shall see that he is in a state of bodily cleanliness and comfortably clothed with clean clothes. The department may by order direct that any person whom it deems unsuitable therefor shall not be employed as an attendant for any committed person. After the patient has been delivered to the proper officers of the hospital, the care and custody of the county or municipality from which he is sent ceases.

(Amended by Stats. 1968, Ch. 1374.)

CHAPTER 8. MENTALLY DISORDERED PERSONS CHARGED WITH CRIME

(Chapter 8 added by Stats. 1967, Ch. 1667.)

6825. The procedures for handling mentally disordered persons charged with the commission of public offenses are provided for in Section 1026 of the Penal Code and in Chapter 6 (commencing with Section 1365), Title 10, Part 2 of the Penal Code.

(Added by Stats. 1967, Ch. 1667.)

Article 4. Acute Psychiatric Health Facility Allocations

(Article 4 added by Stats. 1991, Ch. 1000, Sec. 2. Effective October 14, 1991.)

14640. (a) The State Department of Mental Health shall allocate funds for the provision of mental health services to Medi-Cal eligible persons over 20 years of age to counties of over one million population that own and operate an acute psychiatric health facility, and in which the number of general acute care hospital psychiatric beds is 50 or less. Counties receiving allocations pursuant to this subdivision may contract with privately operated psychiatric health facilities, or with freestanding psychiatric hospitals which have been certified to provide care to Medi-Cal eligible persons.

(b) Payments made from the allocation established under subdivision (a) shall be made according to state established reimbursement formulas for mental health services, and shall be funded through moneys initially transferred from the State Department of Health Services and subsequently appropriated to the State Department of Mental Health under Item 4440-101-001 of the annual Budget Act.

(c) Allocations made pursuant to subdivision (a) shall not exceed the General Fund share of expenditures made under the Medi-Cal program for acute psychiatric inpatient care units in general acute care hospitals in the subject county during the 1989-90 state fiscal year. Payments shall be made only to the extent that those inpatient units have ceased operation in subsequent years and the capacity has not been replaced by capacity in other general acute care hospitals.

(Added by Stats. 1991, Ch. 1000, Sec. 2. Effective October 14, 1991.)

14680. (a) The Legislature finds and declares that there is a need to establish a standard set of guidelines that governs the provision of managed Medi-Cal mental health services at the local level, consistent with federal law.

(b) Therefore, in order to ensure quality and continuity, and to efficiently utilize mental health services under the Medi-Cal program, there shall be developed local managed mental health care plans for the provision of those services that are consistent with guidelines established by the State Department of Mental Health.

(c) It is the intent of the Legislature that local managed mental health care plans be developed and implemented regardless of whether other systems of Medi-Cal managed care are implemented.

(d) It is further the intent of the Legislature that Sections 14681 to 14685, inclusive, shall not be construed to mandate the participation of counties in Medi-Cal managed mental health care plans.

(Added by Stats. 1994, Ch. 633, Sec. 2. Effective September 20, 1994. Note: Article placement for Sections 14680-14685 is subject to determination.)

14681. The State Department of Health Services, in consultation with the State Department of Mental Health, shall ensure

that all contracts for Medi-Cal managed care include a process for screening, referral, and coordination with any local mental health managed care program established pursuant to Section 14682, of medically necessary mental health care services.

(Added by Stats. 1994, Ch. 633, Sec. 2.5. Effective September 20, 1994.)

14682. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, the State Department of Mental Health shall be designated as the state agency responsible for development, consistent with the requirements of Section 4060, and implementation of local mental health managed care plans for Medi-Cal beneficiaries.

(b) The department shall convene a steering committee for the purpose of providing advice and recommendations on the development of Medi-Cal mental health managed care systems pursuant to subdivision (a). The committee shall include work groups to advise the department of major issues to be addressed in the managed mental health care plan. Representatives of concerned groups, including, but not limited to, beneficiaries, their families, providers, mental health professionals, statewide representatives of health care service plans, the California Mental Health Planning Council, public and private organizations, and county mental health directors, shall be invited to participate in the steering committee process.

(Added by Stats. 1994, Ch. 633, Sec. 3. Effective September 20, 1994.)

14683. The State Department of Mental Health shall ensure the following in the development of local managed mental health care plans:

(a) That local managed mental health care plans include a process for screening, referral, and coordination with other necessary services, including, but not limited to, health, housing, and vocational rehabilitation services. For Medi-Cal eligible children, the plans shall also provide coordination with education programs and any necessary medical or rehabilitative services, including, but not limited to, those provided under the California Children's Services Program (Article 2 (commencing with Section 248) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code) and the Child Health and Disability Prevention Program (Article 3.4 (commencing with Section 320) of Chapter 2 of Part 1 of Division 1 of the Health and Safety Code), and those provided by a fee-for-service provider or a Medi-Cal managed care plan. This subdivision shall not be construed to establish any higher level of service from a county than is required under existing law. The county mental health department and the mental health managed care plan, if it is not the county department, shall not be liable for the failure of other agencies responsible for the provision of nonmental health services to provide

those services or to participate in coordination efforts.

(b) That managed mental health care plans include a system of outreach to enable beneficiaries and providers to participate in and access mental health services under the plans, consistent with existing law.

(c) That standards for quality and access developed by the department, in consultation with the steering committee established pursuant to Section 14682, are included in local managed mental health care plans.

(Added by Stats. 1994, Ch. 633, Sec. 4. Effective September 20, 1994.)

14684. Notwithstanding any other provision of state law, and to the extent permitted by federal law, local managed mental health care plans, whether administered by public or private entities, shall be governed by the following guidelines:

(a) State and federal Medi-Cal funds identified for the diagnosis and treatment of mental disorders shall be used solely for those purposes. Administrative costs shall be clearly identified and shall be limited to reasonable amounts in relation to the scope of services and the total funds available. Administrative requirements shall not impose costs exceeding funds available for that purpose.

(b) The development of the local plan shall include a public planning process that includes a significant role for Medi-Cal beneficiaries, family members, mental health advocates, providers, and public and private contract agencies.

(c) The local plan shall include appropriate standards relating to quality, access, and coordination of services within a managed system of care, and costs established under the plan, and shall provide opportunities for existing Medi-Cal providers to continue to provide services under the plan, as long as the providers meet those standards.

(d) Continuity of care for current recipients of services shall be ensured in the transition to managed mental health care.

(e) Medi-Cal covered mental health services shall be provided in the beneficiary's home community, or as close as possible to the beneficiary's home community. Pursuant to the objectives of the rehabilitation option described in subdivision (a) of Section 14021.4, mental health services may be provided in a facility, a home, or other community-based site.

(f) Medi-Cal beneficiaries whose mental or emotional condition results or has resulted in functional impairment, as defined by the department, shall be eligible for covered mental health services. Emphasis shall be placed on adults with serious and persistent mental illness and children with serious emotional disturbances, as defined by the department.

(g) Each plan shall include a mechanism for monitoring the effectiveness of, and evaluating accessibility and quality of,

services available. The plan shall utilize and be based upon state-adopted performance outcome measures and shall include a beneficiary satisfaction component and a grievance system for beneficiaries and providers.

(h) Each plan shall provide for culturally competent and age-appropriate services, to the extent feasible. The plan shall assess the cultural competency needs of the program. The plan shall include, as part of the quality assurance program required by Section 4070, a process to accommodate the significant needs with reasonable timeliness. The department shall provide demographic data and technical assistance. Performance outcome measures shall include a reliable method of measuring and reporting the extent to which services are culturally competent and age-appropriate.

(Added by Stats. 1994, Ch. 633, Sec. 5. Effective September 20, 1994.)

14685. Counties shall have the right of first refusal to serve as a local managed mental health care plan. If a county elects not to serve as a local managed mental health care plan, the State Department of Mental Health shall ensure that these services are provided.

(Added by Stats. 1994, Ch. 633, Sec. 6. Effective September 20, 1994.)

CHAPTER 6. UNEMPLOYED OR DISPLACED WORKERS

(Chapter 6 added by Stats. 1988, Ch. 90, Sec. 1. See another Chapter 6, commencing with Section 17600.)

17500. It is the intent of the Legislature in enacting this chapter to encourage certain counties to provide preventative support services to unemployed and displaced workers for the following purposes:

(a) To enable unemployed workers and their families to maintain stability in their lives.

(b) To bring together the resources and skills of the public and private sector to aid unemployed workers and their families.

(c) To help prevent the emotional crisis often resulting from unemployment from leading to more serious and disabling health and mental health problems, including homelessness and suicide.

(d) To help unemployed workers and their families avoid dependency upon public assistance programs.

(e) To encourage a cooperative effort between the Employment Development Department and other local public and private services in providing supportive services to unemployed workers and their families.

(f) The services provided pursuant to this chapter are to be carried out through coordination with the service delivery area, as designated pursuant to Section 15005 of the Unemployment Insurance Code, and shall be consistent with the appropriate service delivery area plan and employment and training plan for displaced workers, as described in Sections 15043 and 15076, respectively, of the Unemployment Insurance Code.

(Added by Stats. 1988, Ch. 90, Sec. 1.)

17501. (a) A county may, upon the affirmative vote of the board of supervisors, elect to contract with a contracting agency for services which provide counseling and referral and resource information services that conform to the purposes listed in Section 17500.

(b) The services provided under contract may include:

(1) Telephone crisis counseling.

(2) Development and publication of resource guides.

(3) Direct supportive counseling.

(c) The services provided under contract may not include direct financial assistance to clients.

(d) The direct services provided under contract shall be delivered at or near the local Employment Development Department offices or other related public service sites.

(e) The contractor shall be encouraged to use volunteer resources in service delivery to the maximum extent possible.

(Added by Stats. 1988, Ch. 90, Sec. 1.)

CHAPTER 6. STATE AND LOCAL FUND ALLOCATIONS

(Chapter 6 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.
See another Chapter 6, commencing with Section 17500.)

Article 1. Funding Allocations

(Article 1 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17600. (a) There is hereby created the Local Revenue Fund, which shall have all of the following accounts:

(1) The Sales Tax Account.

(2) The Vehicle License Fee Account.

(3) The Vehicle License Collection Account.

(4) The Sales Tax Growth Account.

(5) The Vehicle License Fee Growth Account.

(b) The Sales Tax Account shall have all of the following subaccounts:

(1) The Mental Health Subaccount.

(2) The Social Services Subaccount.

(3) The Health Subaccount.

(4) The In-Home Supportive Services Registry Model Subaccount.

(c) The Sales Tax Growth Account shall have all of the following subaccounts:

(1) The Caseload Subaccount.

(2) The Base Restoration Subaccount.

(3) The Indigent Health Equity Subaccount.

(4) The Community Health Equity Subaccount.

(5) The Mental Health Equity Subaccount.

(6) The State Hospital Mental Health Equity Subaccount.

(7) The County Medical Services Subaccount.

(8) The General Growth Subaccount.

(9) The Special Equity Subaccount.

(d) Notwithstanding Section 13340 of the Government Code, the Local Revenue Fund is continuously appropriated, without regard to fiscal years, for the purpose of this chapter.

(e) The Local Revenue Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be distributed in January and July among the accounts and subaccounts in proportion to the amounts deposited into each subaccount, except as provided in subdivision (f).

(f) If a distribution required by subdivision (e) would cause a subaccount to exceed its limitations imposed pursuant to any of the following, the distribution shall be made among the remaining subaccounts in proportion to the amounts deposited into each subaccount in the six prior months:

(1) Subdivision (a) of Section 17605.

(2) Paragraph (1) of subdivision (a) of Section 17605.05.

(3) Subdivision (b) of Section 17605.10.

(4) Subdivision (c) of Section 17605.10.

(Amended by Stats. 1993, Ch. 100, Sec. 7. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17600.10. (a) Each county and city and county receiving funds in accordance with this chapter shall establish and maintain a local health and welfare trust fund comprised of the following accounts:

(1) The mental health account.

(2) The social services account.

(3) The health account.

(b) Each city receiving funds in accordance with this

chapter shall establish and maintain a local health and welfare trust fund comprised of a health account and a mental health account.

(Amended by Stats. 1993, Ch. 728, Sec. 3. Effective October 4, 1993.)

17600.110. (a) Moneys in the In-Home Supportive Services Registry Model Account shall be available for allocation by the Controller for the purposes of Section 12301.6.

(b) On September 1, 1993, the Controller shall transfer two million one hundred forty-five thousand dollars ($2,145,000) from Schedule A of Item 5180-151-001 of the Budget Act of 1993 and one million one hundred fifty-five thousand ($1,155,000) from the Social Services Subaccount into the In-Home Supportive Services Registry Model Account.

(Added by Stats. 1993, Ch. 69, Sec. 62.5. Effective June 30, 1993.)

17600.15. (a) Of the sales tax proceeds from revenues collected in the 1991-92 fiscal year which are deposited to the credit of the Local Revenue Fund, 51.91 percent shall be credited to the Mental Health Subaccount, 36.17 percent shall be credited to the Social Services Subaccount, and 11.92 percent shall be credited to the Health Subaccount of the Sales Tax Account.

(b) For the 1992-93 fiscal year and fiscal years thereafter, of the sales tax proceeds from revenues deposited to the credit of the Local Revenue Fund, the Controller shall make monthly deposits to the Mental Health Subaccount, the Social Services Subaccount, and the Health Subaccount of the Sales Tax Account until the deposits equal the amounts that were allocated to counties, cities, and cities and counties mental health accounts, social services accounts, and health accounts, respectively, of the local health and welfare trust funds in the prior fiscal year pursuant to this chapter from the Sales Tax Account and the Sales Tax Growth Account. Any excess sales tax revenues received pursuant to Sections 6051.2 and 6201.2 of the Revenue and Taxation Code shall be deposited in the Sales Tax Growth Account of the Local Revenue Fund.

(Amended by Stats. 1993, Ch. 100, Sec. 8. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17600.20. (a) Any county or city or city and county may reallocate money among accounts in the local health and welfare trust fund, not to exceed 10 percent of the amount deposited in the account from which the funds are reallocated for that fiscal year.

(b) After depositing funds to the social services account allocated to a county or city and county pursuant to Section 17605 and after reallocating funds from both the health account and mental health account of the local health and welfare trust fund under

subdivision (a), a county may reallocate up to an additional 10 percent of the money from the health account to the social services account in the 1992-93 fiscal year and fiscal years thereafter, for caseload increases for mandated social services programs listed in paragraph (2) of subdivision (b) of Section 17605 in excess of revenue growth in the social services account.

(c) (1) A county or city or city and county shall, at a regularly scheduled public hearing of its governing body, document that any decision to make any substantial change in its allocation of mental health, social services, or health trust fund moneys among services, facilities, programs, or providers as a result of reallocating funds pursuant to subdivision (a), (b), or (d) was based on the most cost-effective use of available resources to maximize client outcomes.

(2) Any county or city and county that reallocates funds pursuant to subdivision (b) shall document, at a regularly scheduled public hearing of the board of supervisors, that the net social services caseload has increased beyond the revenue growth in the social services account.

(3) Any county, city, or city and county that is required to document any reallocation of funds pursuant to paragraphs (1) and (2) shall forward a copy of the documentation to the Controller. The Controller shall make copies of the documentation available to the Legislature and to other interested parties, upon request.

(d) In addition to subdivision (a), a county or city and county may reallocate up to an additional 10 percent of the money from the social services account to the mental health account or the health account in the 1993-94 fiscal year and fiscal years thereafter when there exist in the social services account revenues in excess of the amount necessary to fund mandated caseload costs, pursuant to paragraph (2) of subdivision (b) of Section 17605, as determined by the county board of supervisors, as a result of implementation of personal care services or other program changes.

(Amended by Stats. 1993, Ch. 100, Sec. 9. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

Article 2. Mental Health Allocations

(Article 2 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17601. On or before the 27th day of each month, the Controller shall allocate to the mental health account of each local health and welfare trust fund the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Mental Health Subaccount of the Sales Tax Account in the Local Revenue Fund

in accordance with the following schedules:

(a) (1) Schedule A--State Hospital and Community Mental Health Allocations.

Jurisdiction	Allocation Percentage
Alameda	4.882
Alpine	0.018
Amador	0.070
Butte	0.548
Calaveras	0.082
Colusa	0.073
Contra Costa	2.216
Del Norte	0.088
El Dorado	0.285
Fresno	2.045
Glenn	0.080
Humboldt	0.465
Imperial	0.342
Inyo	0.104
Kern	1.551
Kings	0.293
Lake	0.167
Lassen	0.087
Los Angeles	28.968
Madera	0.231
Marin	0.940
Mariposa	0.054
Mendocino	0.332
Merced	0.546
Modoc	0.048
Mono	0.042
Monterey	0.950
Napa	0.495
Nevada	0.191
Orange	4.868
Placer	0.391
Plumas	0.068
Riverside	2.394
Sacramento	3.069
San Benito	0.090
San Bernardino	3.193
San Diego	5.603
San Francisco	4.621
San Joaquin	1.655
San Luis Obispo	0.499
San Mateo	2.262
Santa Barbara	0.949
Santa Clara	4.112

Santa Cruz	0.558
Shasta	0.464
Sierra	0.026
Siskiyou	0.137
Solano	1.027
Sonoma	1.068
Stanislaus	1.034
Sutter/Yuba	0.420
Tehama	0.181
Trinity	0.055
Tulare	0.941
Tuolumne	0.121
Ventura	1.472
Yolo	0.470
Berkeley	0.190
Tri-City	0.165

The amounts allocated in accordance with Schedule A for the 1991-92 fiscal year shall be considered the base allocations for the 1992-93 fiscal year.

(2) The funds allocated pursuant to Schedule B shall be increased to reflect the addition of percentages for the Institute for Mental Disease allocation pursuant to paragraph (1) of subdivision (c).

(3) The Controller shall allocate three million seven hundred thousand dollars ($3,700,000) to the counties pursuant to a percentage schedule developed by the Director of Mental Health as specified in subdivision (c) of Section 4095. The funds allocated pursuant to Schedule A shall be increased to reflect the addition of this schedule.

(4) The department may amend Schedule A in order to restore counties funds associated with multicounty regional programs.

(b) (1) Schedule B--State Hospital Payment Schedule.

From the amounts allocated in accordance with Schedule A, each county and city shall reimburse the Controller for reimbursement to the State Department of Mental Health, for the 1991-92 fiscal year only, an amount equal to one-ninth of the amount identified in Schedule B as modified to reflect adjustments pursuant to paragraph (2) of subdivision (a) of Section 4330. The reimbursements shall be due the 24th day of each month and the first payment shall be due on October 24, 1991. During the 1992-93 fiscal year and fiscal years thereafter, each monthly reimbursement shall be one-twelfth of the total amount of the county's contract with the department for state hospital services.

Jurisdiction	First Year State Hospital Withholding
Alameda.....	$ 15,636,372

Berkeley City	0
Alpine	95,379
Amador	148,915
Butte	650,238
Calaveras	100,316
Colusa	189,718
Contra Costa	8,893,339
Del Norte	94,859
El Dorado	236,757
Fresno	1,429,379
Glenn	51,977
Humboldt	727,684
Imperial	259,887
Inyo	363,842
Kern	4,024,613
Kings	266,904
Lake	292,373
Lassen	167,367
Los Angeles	102,458,700
Tri-City	0
Madera	131,243
Marin	3,248,590
Mariposa	117,989
Mendocino	471,955
Merced	404,125
Modoc	94,859
Mono	94,859
Monterey	2,079,097
Napa	2,338,985
Nevada	493,786
Orange	14,066,133
Placer	847,232
Plumas	130,463
Riverside	4,891,077
Sacramento	4,547,506
San Benito	259,887
San Bernardino	5,587,574
San Diego	6,734,976
San Francisco	23,615,688
San Joaquin	927,018
San Luis Obispo	719,887
San Mateo	6,497,179
Santa Barbara	2,168,758
Santa Clara	7,106,095
Santa Cruz	1,403,391
Shasta	1,169,492
Sierra	94,859
Siskiyou	129,944

Solano.....	5,332,885
Sonoma.....	2,669,041
Stanislaus.....	1,740,205
Sutter/Yuba.....	363,842
Tehama.....	363,842
Trinity.....	94,859
Tulare.....	675,707
Tuolumne.....	304,328
Ventura.....	3,378,533
Yolo.....	1,169,492

(2) (A) (i) During the 1992-93 fiscal year, in lieu of making the reimbursement required by paragraph (1), a county may elect to authorize the Controller to reimburse the State Hospital Account of the Mental Health Facilities Fund a pro rata share each month computed by multiplying the ratio of the reimbursement amount owed by the county as specified in Schedule B to the total amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(ii) The reimbursement shall be made monthly on the same day the Controller allocates funds to the local health and welfare trust funds.

(B) During the 1992-93 fiscal year and thereafter, the amount to be reimbursed each month shall be computed by multiplying the ratio of the county's contract for state hospital services to the amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(C) All reimbursements, deposits, and transfers made to the Mental Health Facilities Fund pursuant to a county election shall be deemed to be deposits to the local health and welfare trust fund.

(3) (A) Counties shall notify the Controller, in writing, by October 15, 1991, upon making the election pursuant to paragraph (2). The election shall be binding for the fiscal year. The pro rata share of allocations made prior to the election by the county shall be withheld from allocations in subsequent months until paid.

(B) For the 1992-93 fiscal year and fiscal years thereafter, counties shall notify the Controller, in writing, by July 1 of the fiscal year for which the election is made, upon making the election pursuant to paragraph (2).

(4) Regardless of the reimbursement option elected by a county, no county shall be required to reimburse the Mental Health Facilities Fund by an amount greater than the amount identified in Schedule B as modified to reflect adjustments pursuant to paragraph (2) of subdivision (a) of Section 4330.

(c) (1) For the 1991-92 fiscal year, the Controller shall distribute monthly beginning in October from the Mental Health

Subaccount of the Sales Tax Account of the Local Revenue Fund to the mental health account of each local health and welfare trust fund one-ninth of the amount allocated to the county in accordance with the institutions for mental disease allocation schedule established by the State Department of Mental Health.

(2) Each county shall forward to the Controller, monthly, an amount equal to one-ninth of the amount identified in the schedule established by the State Department of Mental Health. The reimbursements shall be due by the 24th day of the month to which they apply, and the first payment shall be due October 24, 1991. These amounts shall be deposited in the Institutions for Mental Disease Account in the Mental Health Facilities Fund.

(3) (A) (i) During the 1991-92 fiscal year, in lieu of making the reimbursement required by paragraph (1), a county may elect to authorize the Controller to reimburse the Institutions for Mental Disease Account of the Mental Health Facilities Fund a pro rata share each month computed by multiplying the ratio of the reimbursement amount owed by the county as specified in Schedule B to the total amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(ii) The reimbursement shall be made monthly on the same day the Controller allocates funds to the local health and welfare trust funds.

(B) During the 1992-93 fiscal year and thereafter, the amount to be reimbursed each month shall be computed by multiplying the ratio of the county's contract for mental health services to the amount of money projected to be allocated to the county pursuant to Schedule A by the funds available for deposit in the mental health account of the county's health and welfare trust fund.

(C) All reimbursements, deposits, and transfers made to the Mental Health Facilities Fund pursuant to a county election shall be deemed to be deposits to the local health and welfare trust fund.

(4) (A) Counties shall notify the Controller, in writing, by October 15, 1991, upon making the election pursuant to paragraph (3). The election shall be binding for the fiscal year. The pro rata share of allocations made prior to the election by the county shall be withheld from allocations in subsequent months until paid.

(B) For the 1992-93 fiscal year and fiscal years thereafter, counties shall notify the Controller, in writing, by July 1 of the fiscal year for which the election is made, upon making the election pursuant to paragraph (2).

(5) Regardless of the reimbursement option elected by a county, no county shall be required to reimburse the Institutions for Mental Disease Account in the Mental Health Facilities Fund an amount greater than the amount identified in the schedule developed by the State Department of Mental Health pursuant to paragraph (1).

(d) The Controller shall withhold the allocation of funds

pursuant to subdivision (a) in any month a county does not meet the requirements of paragraph (1) of subdivision (b) or paragraph (2) of subdivision (c), in the amount of the obligation and transfer the funds withheld to the State Department of Mental Health for deposit in the State Hospital Account or the Institutions for Mental Disease Account in the Mental Health Facilities Fund, as appropriate.

(Amended by Stats. 1992, Ch. 1374, Sec. 51. Effective October 28, 1992.)

17601.05. (a) There is hereby created the Mental Health Facilities Fund, which shall have the following accounts:

(1) The State Hospital Account.

(2) The Institutions for Mental Disease Account.

(b) Funds deposited in the State Hospital Account are continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Mental Health for costs incurred pursuant to Chapter 4 (commencing with Section 4330) of Part 2 of Division 4.

(c) Funds deposited in the Institutions for Mental Disease Account of the Mental Health Facilities Fund are continuously appropriated, notwithstanding Section 13340 of the Government Code, without regard to fiscal years, for disbursement monthly to the State Department of Mental Health for costs incurred pursuant to Part 5 (commencing with Section 5900) of Division 4.

(Added by renumbering Section 17602.05 by Stats. 1991, Ch. 611, Sec. 93. Effective October 7, 1991.)

17601.10. (a) The State Department of Mental Health may request a loan from the General Fund in an amount that shall not exceed one hundred million dollars ($100,000,000) for the purposes of meeting cash-flow needs in its state hospital operations due to delays in the receipt of reimbursements from counties.

(b) The Controller shall liquidate any loan, in accordance with Section 16314 of the Government Code, from the next available deposits into the State Hospital Account in the Mental Health Facilities Fund.

(c) If a loan remains outstanding at the end of any fiscal year, the State Department of Mental Health shall determine the amount of the loan attributable to a shortfall in payments by counties against the amount due in Schedule B in the 1991-92 fiscal year or the contract amount for beds purchased in each subsequent fiscal year. The State Department of Mental Health shall determine any amounts due to counties pursuant to subdivision (d) of Section 4330. The State Department of Mental Health shall invoice each county for any outstanding balance. Sixty days after an invoice has been provided and upon notice to the Controller by the State Department of Mental Health, the Controller shall collect an amount from the county's

allocation to the mental health account of the local health and welfare trust fund that is sufficient to pay any outstanding balance of the invoice. If these amounts do not provide sufficient funds to repay the outstanding loan, the Controller shall liquidate the balance from the next available deposits into the Mental Health Subaccount in the Sales Tax Account in the Local Revenue Fund.

(Repealed and added by Stats. 1992, Ch. 1374, Sec. 54. Effective October 28, 1992.)

Article 3. Social Services Allocations

(Article 3 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17602. (a) On or before the 27th day of the month, the Controller shall allocate to counties the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund, pursuant to schedules developed by the Department of Finance in conjunction with the appropriate state departments based on the estimated 1991-92 expenditures as contained in the Budget Act for programs set forth in subdivision (b), the Controller shall make monthly allocations to counties of the funds deposited into the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund. These allocations shall be made to the Social Services Account of the local health and welfare trust fund.

The programs to be funded in accordance with the schedule are those set forth in Sections 1794, 1904, 10101, 10101.1, 11322, 11322.2, 12306, 15200, 15204.2, and 18906.5 of this code, and Section 265 of the Health and Safety Code and the program set forth in Section 1806, as funded in the Governor's proposed budget. The schedule for the 1991-92 fiscal year shall be considered final on October 1, 1991.

(b) (1) For the 1991-92 fiscal year and every fiscal year thereafter, the Controller shall allocate an amount from the Social Services Subaccount to counties that equals the amount those counties receive pursuant to Sections 16265 to 16265.7, inclusive, of the Government Code in the 1990-91 fiscal year.

(2) Notwithstanding any other provision of this chapter, counties may use these funds as authorized by Section 16265.7 of the Government Code.

(c) (1) Pursuant to schedules developed by the Department of Finance, in conjunction with the Department of the Youth Authority, based on the estimated 1991-92 fiscal year expenditures as contained in the 1991-92 proposed Governor's Budget for programs impacted by the realignment and contained in the allocations to counties of the funds deposited into the Social Services Subaccount of the Sales Tax Account in the Local Revenue Fund. The programs set forth in Sections 894,

1794, and 1904 shall be funded in accordance with the schedules adopted pursuant to this subdivision.

(2) (A) Counties that receive allocations pursuant to Article 24.5 (commencing with Section 894) of Chapter 2 of Division 2, Article 5.5 (commencing with Section 1790) of Chapter 1 of Division 2.5 and Article 10 (commencing with Section 1900) of Chapter 1 of Division 2.5 shall receive the same allocation for the 1991-92 fiscal year that they received for the 1990-91 fiscal year.

(B) (i) Of the amount allocated to San Bernardino County under this section for the 1991-92 fiscal year, five hundred thousand dollars ($500,000) shall be designated for the Regional Youth Education Center.

(ii) Of the amount allocated to Los Angeles County under this section for the 1991-92 fiscal year, four hundred eighty-nine thousand four hundred eighty-six dollars ($489,486) shall be designated for the Sugar Ray Robinson Youth Foundation, and one hundred forty thousand eight hundred dollars ($140,800) shall be allocated for the John Rossi Youth Foundation, Inc.

(C) Funding allocated to counties under this section for the 1991-92 fiscal year for programs set forth in Article 2 (commencing with Section 1900) of Chapter 1 of Division 2.5 shall be allocated to previously funded youth services bureaus at the 1990-91 fiscal year level.

(d) Subject to the availability of funds from the 1990-91 fiscal year, the Counties of Butte, Colusa, El Dorado, Humboldt, Lake, Madera, Nevada, Placer, Riverside, Santa Cruz, and Yuba may be reimbursed for underallocated Child Welfare Services' Program costs from unused Child Welfare Services' Program funds to reflect Public Employees' Retirement System contributions credits in the 1991-92 fiscal year.

(e) For the 1992-93 fiscal year and fiscal years thereafter, the allocations by the Controller to each county and city and county shall equal the amounts received in the prior fiscal year by each county and city and county from the Sales Tax Account and the Sales Tax Growth Account for deposit into the social services account of the local health and welfare trust fund.

(Amended by Stats. 1993, Ch. 100, Sec. 10. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

Article 4. Health Allocations

(Article 4 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17603. On or before the 27th day of each month, the Controller shall allocate to the local health and welfare trust fund

health accounts the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Health Subaccount of the Sales Tax Account of the Local Revenue Fund, in accordance with subdivisions (a) and (b):

(a) For the 1991-92 fiscal year, allocations shall be made in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.5046
Alpine	0.0137
Amador	0.1512
Butte	0.8131
Calaveras	0.1367
Colusa	0.1195
Contra Costa	2.2386
Del Norte	0.1340
El Dorado	0.5228
Fresno	2.3531
Glenn	0.1391
Humboldt	0.8929
Imperial	0.8237
Inyo	0.1869
Kern	1.6362
Kings	0.4084
Lake	0.1752
Lassen	0.1525
Los Angeles	37.2607
Madera	0.3656
Marin	1.0785
Mariposa	0.0815
Mendocino	0.2586
Merced	0.4094
Modoc	0.0923
Mono	0.1342
Monterey	0.8975
Napa	0.4466
Nevada	0.2734
Orange	5.4304
Placer	0.2806
Plumas	0.1145
Riverside	2.7867
Sacramento	2.7497
San Benito	0.1701
San Bernardino	2.4709
San Diego	4.7771
San Francisco	7.1450
San Joaquin	1.0810
San Luis Obispo	0.4811

San Mateo	1.5937
Santa Barbara	0.9418
Santa Clara	3.6238
Santa Cruz	0.6714
Shasta	0.6732
Sierra	0.0340
Siskiyou	0.2246
Solano	0.9377
Sonoma	1.6687
Stanislaus	1.0509
Sutter	0.4460
Tehama	0.2986
Trinity	0.1388
Tulare	0.7485
Tuolumne	0.2357
Ventura	1.3658
Yolo	0.3522
Yuba	0.3076
Berkeley.....	0.0692
Long Beach.....	0.2918
Pasadena.....	0.1385

(b) For the 1992-93 fiscal year and fiscal years thereafter, the allocations to each county and city and county shall equal the amounts received in the prior fiscal year by each county, city, and city and county from the Sales Tax Account and the Sales Tax Growth Account of the Local Revenue Fund into the health and welfare trust fund.

(Amended by Stats. 1993, Ch. 100, Sec. 11. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17603.05. (a) Upon request of a county, the Controller may deposit all or a portion of the county's allocation under this article into the County Medical Services Program Account of the County Health Services Fund.

(b) Any deposit or transfer the Controller makes to the County Medical Services Program Account shall be deemed to be a deposit to the local health and welfare fund.

(Amended by Stats. 1991, Ch. 611, Sec. 95. Effective October 7, 1991.)

Article 5. Vehicle License Fee Allocations

(Article 5 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17604. (a) All motor vehicle license fee revenues collected in the 1991-92 fiscal year that are deposited to the credit of the Local Revenue Fund shall be credited to the Vehicle License Fee Account of that fund.

(b) (1) For the 1992-93 fiscal year and fiscal years thereafter, from vehicle license fee proceeds from revenues deposited to the credit of the Local Revenue Fund, the Controller shall make monthly deposits to the Vehicle License Fee Account of the Local Revenue Fund until the deposits equal the amounts that were allocated to counties, cities, and cities and counties as general purpose revenues in the prior fiscal year pursuant to this chapter from the Vehicle License Fee Account in the Local Revenue Fund and the Vehicle License Fee Account and the Vehicle License Fee Growth Account in the Local Revenue Fund.

(2) Any excess vehicle fee revenues deposited into the Local Revenue Fund pursuant to Section 11001.5 of the Revenue and Taxation Code shall be deposited in the Vehicle License Fee Growth Account of the Local Revenue Fund.

(c) (1) On or before the 27th day of each month, the Controller shall allocate to each county, city, or city and county, as general purpose revenues the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Vehicle License Fee Account of the Local Revenue Fund, in accordance with paragraphs (2) and (3).

(2) For the 1991-92 fiscal year, allocations shall be made in accordance with the following schedule:

Jurisdiction	Allocation Percentage
Alameda	4.5046
Alpine	0.0137
Amador	0.1512
Butte	0.8131
Calaveras	0.1367
Colusa	0.1195
Contra Costa	2.2386
Del Norte	0.1340
El Dorado	0.5228
Fresno	2.3531
Glenn	0.1391
Humboldt	0.8929
Imperial	0.8237
Inyo	0.1869
Kern	1.6362
Kings	0.4084
Lake	0.1752
Lassen	0.1525
Los Angeles	37.2607
Madera	0.3656

Marin	1.0785
Mariposa	0.0815
Mendocino	0.2586
Merced	0.4094
Modoc	0.0923
Mono	0.1342
Monterey	0.8975
Napa	0.4466
Nevada	0.2734
Orange	5.4304
Placer	0.2806
Plumas	0.1145
Riverside	2.7867
Sacramento	2.7497
San Benito	0.1701
San Bernardino	2.4709
San Diego	4.7771
San Francisco	7.1450
San Joaquin	1.0810
San Luis Obispo	0.4811
San Mateo	1.5937
Santa Barbara	0.9418
Santa Clara	3.6238
Santa Cruz	0.6714
Shasta	0.6732
Sierra	0.0340
Siskiyou	0.2246
Solano	0.9377
Sonoma	1.6687
Stanislaus	1.0509
Sutter	0.4460
Tehama	0.2986
Trinity	0.1388
Tulare	0.7485
Tuolumne	0.2357
Ventura	1.3658
Yolo	0.3522
Yuba	0.3076
Berkeley.....	0.0692
Long Beach.....	0.2918
Pasadena.....	0.1385

(3) For the 1992-93 fiscal year and fiscal years thereafter, allocations shall be made in the same amounts as were distributed from the Vehicle License Fee Account and the Vehicle License Fee Growth Account in the prior fiscal year.

(d) The Controller shall make monthly allocations from the amount deposited in the Vehicle License Collection Account of the

Local Revenue Fund to each county in accordance with a schedule to be developed by the State Department of Mental Health in consultation with the California Mental Health Directors Association, which is compatible with the intent of the Legislature expressed in the act adding this subdivision.

(Amended by Stats. 1993, Ch. 100, Sec. 12. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17604.05. (a) Upon request of a county, the Controller may deposit all or any portion of the county's allocation under this article into the County Medical Services Program Account of the County Health Services Fund.

(b) Deposits made pursuant to subdivision (a) shall be deemed to be deposits into a county's or city's local health and welfare trust fund pursuant to Section 17608.10.

(Added by Stats. 1991, Ch. 611, Sec. 97. Effective October 7, 1991.)

17605. (a) For the 1992-93 fiscal year, the Controller shall deposit into the Caseload Subaccount of the Sales Tax Growth Account of the Local Revenue Fund, from revenues deposited into the Sales Tax Growth Account, an amount to be determined by the Department of Finance, that represent the sum of the shortfalls between the actual realignment revenues received by each county and each city and county from the Social Services Subaccount of the Local Revenue Fund in the 1991-92 fiscal year and the net costs incurred by each of those counties and cities and counties in the fiscal year for the programs described in Sections 10101, 10101.1, 11322, 11322.2, 12306, subdivisions (a), (b), (c), and (d) of Section 15200, and Sections 15204.2 and 18906.5. The Department of Finance shall provide the Controller with an allocation schedule on or before August 15, 1993, that shall be used by the Controller to allocate funds deposited to the Caseload Subaccount under this subdivision. The Controller shall allocate these funds no later than August 27, 1993.

(b) (1) For the 1993-94 fiscal year and fiscal years thereafter, the Controller shall deposit into the Caseload Subaccount of the Sales Tax Growth Account of the Local Revenue Fund, from revenues deposited into the Sales Tax Growth Account, an amount determined by the Department of Finance, in consultation with the appropriate state departments and the California State Association of Counties, that is sufficient to fund the net cost for the realigned portion of the county or city and county share of growth in social services caseloads, as specified in paragraph (2). The Department of Finance shall provide the Controller with an allocations schedule on or before March 15 of each year. The schedule shall be used by the Controller to allocate funds deposited into the Caseload Subaccount under this subdivision.

(2) For purposes of this subdivision, "growth" means the increase in the actual caseload expenditures for the prior fiscal year over the actual caseload expenditures for the fiscal year preceding the prior fiscal year for the programs described in Section 12306, subdivisions (a), (b), (c), and (d) of Section 15200, and Sections 10101, 15204.2 and 18906.5 of this code, and subdivision (b) of Section 265 of the Health and Safety Code.

(3) The difference in caseload expenditures between the fiscal years shall be multiplied by the factors that represent the change in county or city and county shares of the realigned programs. These products shall then be added or subtracted, taking into account whether the county's or city and county's share of costs was increased or decreased as a result of realignment, to yield each county's or city and county's allocation for caseload growth. Allocations for counties or cities and counties with allocations of less than zero shall be set at zero.

(c) On or before the 27th day of each month, the Controller shall allocate, to the local health and welfare trust fund social services account, the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Caseload Subaccount, pursuant to the schedule of allocations of caseload growth described in subdivision (b). If there are insufficient funds to fully satisfy all caseload growth obligations, each county's or city and county's allocation for each program specified in subdivision (d) shall be prorated.

(d) Prior to allocating funds pursuant to subdivision (b), to the extent that funds are available from funds deposited in the Caseload Subaccount in the Sales Tax Growth Account in the Local Revenue Fund, the Controller shall allocate money to counties or cities and counties to correct any inequity or inequities in the computation of the child welfare services portion of the schedule required by subdivision (a) of Section 17602.

(e) The Department of Finance shall submit to the Controller, by March 1, 1994, a schedule specifying the amount of the allocations described in subdivision (d). This schedule shall include, but need not be limited to, adjustments resulting from retirement system credits and other anomalies that occurred in the 1989-90 fiscal year and the 1990-91 fiscal year.

(Repealed and added by Stats. 1993, Ch. 100, Sec. 14. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17605.05. (a) For the 1992-93 fiscal year and fiscal years thereafter, after satisfying the obligations set forth in Section 17605, the Controller shall deposit into the Base Restoration Subaccount of the Sales Tax Growth Account of the Local Revenue Fund, the remainder of those revenues deposited in the Sales Tax Growth Account of the Local Revenue Fund, up to a cumulative amount, that, in

conjunction with local matching funds pursuant to Section 17608.15, is sufficient to fund the difference between two billion two hundred fourteen million four hundred ten thousand two hundred sixty dollars ($2,214,410,260), less the amount allocated pursuant to subdivision (a) of Section 17605, and actual amounts distributed for the 1991-92 fiscal year pursuant to this chapter.

(b) On or before the 27th day of each month, the Controller shall allocate to the appropriate accounts in the local health and welfare trust fund the amounts deposited and remaining unexpended and unreserved on the 15th day of the month in the Base Restoration Subaccount of the Sales Tax Growth Account pursuant to a schedule developed by the Department of Finance, in consultation with the appropriate state departments and the California State Association of Counties, based on each county's, city's, and city and county's share of the funds determined pursuant to subdivision (a), including the adjustment made for individual counties and cities and counties that received funds allocated pursuant to subdivision (a) of Section 17605.

(Amended by Stats. 1994, Ch. 1096, Sec. 6. Effective September 29, 1994.)

17605.07. (a) For the 1992-93 fiscal year and fiscal years thereafter, after satisfying the obligations set forth in Sections 17605 and 17605.05, the Controller shall deposit into the County Medical Services Subaccount 4.027 percent of the amounts remaining and unexpended in the Sales Tax Growth Account of the Local Revenue Fund.

(b) If the amount deposited to the Caseload Subaccount of the Sales Tax Growth Account pursuant to subdivision (b) of Section 17605 exceeds twenty million dollars ($20,000,000) for any fiscal year, then an additional amount equal to 4.027 percent of the amount deposited to the Caseload Subaccount shall be deposited to the County Medical Services Program Subaccount of the Sales Tax Growth Account.

(Added by Stats. 1993, Ch. 100, Sec. 17. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17605.08. (a) For the fiscal year following the first fiscal year in which funds are deposited into the Special Equity Subaccount, after satisfying the obligations set forth in Sections 17605 and 17605.05, the Controller shall deposit into the Special Equity Subaccount any positive difference between ten million one hundred thousand dollars ($10,100,000) and the sum of (1) the amount allocated in the prior year to the Special Equity Subaccount pursuant to Section 17606.10 and (2) the amount of matching funds allocated in the prior fiscal year pursuant to Section 17606.20.

(b) For each fiscal year following the first fiscal year described in subdivision (a), after satisfying the obligations set forth in Section 17605 and 17605.05, the Controller shall deposit any positive difference between seven million one hundred thousand dollars

($7,100,000) and the sum of the amounts allocated in the prior fiscal year to the Special Equity Subaccount pursuant to Section 17605.10 and the matching funds allocated in the prior fiscal year pursuant to Section 17606.20.

(Added by Stats. 1993, Ch. 100, Sec. 18. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17605.10. (a) For the 1992-93 fiscal year and fiscal years thereafter, after satisfying the obligations set forth in Sections 17605, 17605.05, 17605.07, and 17605.08, the Controller shall deposit any funds remaining in the Sales Tax Growth Account of the Local Revenue Fund into the specified subaccounts according to the following schedule:

Account	Allocation Percentage
The Indigent Health Equity Subaccount	4.9388
The Community Health Equity Subaccount	12.0937
The Mental Health Equity Subaccount	3.9081
The State Hospital Mental Health Equity Subaccount	6.9377
The General Growth Subaccount	64.0367
The Special Equity Subaccount	8.0850

(b) Notwithstanding subdivision (a), after amounts have been deposited to the Indigent Health Equity Subaccount, the Community Health Equity Subaccount, the Mental Health Equity Subaccount, and the State Hospital Mental Health Equity Subaccount, which in conjunction with matching funds pursuant to Section 17606.20, comprise a cumulative total of two hundred seven million nine hundred thousand dollars ($207,900,000), or after the requirements of paragraph (2) of subdivision (c) of Section 17606.05 have been satisfied, whichever is less, all additional funds that would be available for deposit into those subaccounts shall be deposited into any remaining subaccounts in proportion to their percentages in the schedule specified in subdivision (a).

(c) Notwithstanding subdivision (a), after amounts have been deposited to the Special Equity Subaccount, which in conjunction with matching funds pursuant to Section 17606.20, comprise a cumulative total of thirty-eight million five hundred thousand dollars ($38,500,000), all additional funds that would be available for deposit into that subaccount shall be deposited into the remaining subaccounts in proportion to their percentages specified in subdivision (a).

(Added by Stats. 1993, Ch. 100, Sec. 19. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

Article 6. Growth Account Allocations--Deposits
(Article 6 added by Stats. 1991, Ch. 89, Sec. 201.5.
Effective June 30, 1991.)

Article 7. Allocation of Funds from the Sales Tax Growth Account
(Article 7 added by Stats. 1991, Ch. 89, Sec. 201.5.
Effective June 30, 1991.)

17606.05. (a) For the 1992-93 fiscal year, the Controller shall allocate to those counties that have a poverty-population shortfall, as described in subdivision (c), those funds deposited in the Indigent Health Equity Subaccount, the Community Health Equity Subaccount, the Mental Health Equity Subaccount, and the State Hospital Mental Health Equity Subaccount in accordance with the following tables and schedules:

(1) The Controller shall make monthly allocations from the amounts deposited in the Indigent Health Equity Subaccount to the health account in the local health and welfare trust fund in accordance with the following schedule:

County	Allocation Percentage
Alameda	9.377
Contra Costa	4.939
Fresno	6.964
Kern	4.362
Merced	1.889
Monterey	2.143
Placer	.959
Riverside	7.059
Sacramento	8.907
San Bernardino	10.804
San Diego	15.927
San Joaquin	4.855
San Luis Obispo	1.200
San Mateo	3.159
Santa Barbara	3.159
Santa Clara	3.159
Stanislaus	3.249
Tulare	3.262
Ventura	3.592
Yolo	1.038

(2) The Controller shall make monthly allocations from the amounts deposited in the Community Health Equity Subaccount to the

health account in the local health and welfare trust fund in accordance with the following schedule:

County	Allocation Percentage
Butte	1.11
Calaveras	.13
Del Norte	.18
El Dorado	.54
Fresno	7.20
Glenn	.12
Humboldt	.71
Imperial	.72
Kern	4.81
Kings	.62
Lake	.35
Lassen	.15
Madera	.43
Marin	.84
Mariposa	.07
Mendocino	.54
Merced	1.53
Modoc	.05
Napa	.50
Nevada	.40
Placer	.63
Plumas	.12
Riverside	7.66
Sacramento	8.01
San Benito	.15
San Bernardino	11.76
San Diego	17.07
San Joaquin	3.91
San Luis Obispo	1.09
Santa Clara	13.88
Shasta	1.09
Sierra	.02
Siskiyou	.25
Solano	1.25
Sonoma	1.83
Stanislaus	2.90
Sutter	.67
Tehama	.29
Tulare	2.03
Tuolumne	.22
Ventura	3.34
Yolo	.84
City of Berkeley	____
City of Pasadena	____

City of Long Beach ..... ____

(3) The Controller shall make monthly allocations from the amounts deposited in the State Hospital Mental Health Equity Subaccount to the mental health account in the local health and welfare trust fund in accordance with the following schedule:

County	Allocation Percentage
Amador	.055
Butte	1.957
Calaveras	.256
Del Norte	.291
El Dorado	1.011
Fresno	10.815
Glenn	.277
Humboldt	.747
Imperial	1.682
Kern	1.726
Kings	1.153
Lake	.470
Lassen	.150
Madera	1.192
Mariposa	.006
Mendocino	.478
Merced	2.924
Modoc	.007
Monterey	.684
Nevada	.021
Placer	.450
Plumas	.068
Riverside	5.538
Sacramento	9.423
San Benito	.010
San Bernardino	11.445
San Diego	19.331
San Joaquin	7.682
San Luis Obispo	1.119
Santa Barbara	.341
Santa Clara	5.264
Santa Cruz	.271
Shasta	.708
Siskiyou	.529
Stanislaus	3.309
Sutter	1.702
Tehama	.194
Trinity	.054
Tulare	5.074
Tuolumne	.104

Ventura	1.377
Yolo	.105
City of Berkeley	____

(4) The Controller shall make monthly allocations from the amounts deposited in the Mental Health Equity Subaccount to the mental health account in the local health and welfare trust fund in accordance with the following schedule:

County	Allocation Percentage
Butte	.379
Contra Costa	6.066
Fresno	7.113
Imperial	.711
Kern	5.387
Lake	.490
Lassen	.045
Los Angeles	28.142
Madera	.335
Merced	1.955
Napa	.046
Orange	2.794
Riverside	6.448
Sacramento	3.710
San Benito	.231
San Bernardino	19.414
Santa Cruz	2.171
Shasta	1.909
Solano	5.117
Stanislaus	3.717
Tulare	3.604
Tuolumne	.217
City of Berkeley	____

(b) (1) For the 1993-94 fiscal year and succeeding years, the Controller shall allocate, on a monthly basis, to the appropriate accounts of the local health and welfare trust fund those funds deposited in the Indigent Health Equity Subaccount, the Community Health Equity Subaccount, the Mental Health Equity Subaccount, and the State Hospital Mental Health Equity Subaccount in the Sales Tax Growth Account in accordance with a schedule prepared in accordance with subdivision (c) by the Department of Finance.

(2) The Department of Finance shall annually consult with The California State Association of Counties prior to submitting any schedule of allocations to the Controller.

(3) If deposits to the Indigent Health Equity Subaccount, the Community Health Equity Subaccount, the Mental Health Equity Subaccount, and the State Hospital Mental Health Equity Subaccount are

not sufficient to eliminate poverty-population shortfalls as described in subdivision (c), each eligible jurisdiction shall receive an allocation which equals its pro rata share of funds in the subaccount based on the jurisdiction's percentage share of the poverty-population shortfall.

(c) (1) A poverty-population percentage shall be computed annually by the Department of Finance for each county, city, and city and county by averaging each jurisdiction's share of the state's total population and each jurisdiction's percentage share of the state's total cash-grant certified AFDC and SSI/SSP eligible populations residing in the county, city, or city and county, as determined by the Department of Finance.

(2) (A) For each subaccount, the Department of Finance shall calculate the poverty-population shortfall for each county, city, and city or county, which received funding from the state, including any equity allocation made pursuant to this section, in the prior fiscal year and excluding any transfers to or from other subaccounts under Section 17600.20.

(B) The poverty-population shortfalls shall be calculated for the following programs or funding sources:

(i) State funding under Part 4.5 (commencing with Section 16700), as operative on June 29, 1991, for indigent health programs.

(ii) State funding under Part 4.5 (commencing with Section 16700), as operative on June 29, 1991, for community health programs.

(iii) State hospital funding.

(iv) Funding provided for purposes of implementation of Division 5 (commencing with Section 5000) for the organization and financing of community mental health programs.

(C) The calculation shall identify the amount by which the allocations for the programs or funding sources identified in subparagraph (B) are less than the amount the jurisdiction would have received if its percentage share of the prior year funding had been equal to its poverty-population percentage. Data necessary to complete this calculation shall be submitted to the Department of Finance by the California State Association of Counties no later than December 31, 1994.

(D) The calculation of the poverty-population shortfall for clause (iv) of subparagraph (B) shall include all allocations received pursuant to paragraph (2) of subdivision (a) of Section 5701, including all distributions made pursuant to subdivision (b) of Section 5701, unless those funds are intended for pilot program or demonstration projects or are exempted from this requirement by other provisions of law.

(3) For each subaccount, the Department of Finance shall total the amounts calculated in paragraph (2) and determine the percentage of that total represented by each amount.

(4) Each county's, city's, or city and county's percentage share of each subaccount specified in subdivision (b) of Section

17606.05 shall equal the percentage computed in paragraph (3).

(6) All calculations made pursuant to this subdivision shall be compiled and made available by the Department of Finance, upon request, to all counties, cities, and cities and counties eligible for funding pursuant to this subdivision, and city and counties, receiving funding pursuant to this article at least 30 days prior to submission of schedules of allocations to the Controller.

(Amended by Stats. 1993, Ch. 100, Sec. 22. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17606.10. For the 1992-93 fiscal year and subsequent fiscal years, the Controller shall allocate funds, on a monthly basis from the General Growth Subaccount in the Sales Tax Growth Account to the appropriate accounts in the local health and welfare trust fund of each county, city, and city and county in accordance with a schedule setting forth the percentage of total state resources received in the 1990-91 fiscal year, including State Legalization Impact Assistance Grants distributed by the state under Part 4.5 (commencing with Section 16700), funding provided for purposes of implementation of Division 5 (commencing with Section 5000), for the organization and financing of community mental health services, including the Cigarette and Tobacco Products Surtax proceeds which are allocated to county mental health programs pursuant to Chapter 1331 of the Statutes of 1989, Chapter 51 of the Statutes of 1990, and Chapter 1323 of the Statutes of 1990, and state hospital funding and funding distributed for programs administered under Sections 1794, 10101.1, and 11322.2, as annually adjusted by the Department of Finance, in conjunction with the appropriate state department to reflect changes in equity status from the base percentages. However, for the 1992-93 fiscal year, the allocation for community mental health services shall be based on the following schedule:

Jurisdiction	Percentage of Statewide Resource Base
Alameda	4.3693
Alpine	0.0128
Amador	0.0941
Butte	0.7797
Calaveras	0.1157
Colusa	0.0847
Contra Costa	2.3115
Del Norte	0.1237
El Dorado	0.3966
Fresno	3.1419
Glenn	0.1304
Humboldt	0.6175
Imperial	0.5425

Inyo	0.1217
Kern	1.8574
Kings	0.4229
Lake	0.2362
Lassen	0.1183
Los Angeles	27.9666
Madera	0.3552
Marin	0.9180
Mariposa	0.0792
Mendocino	0.4099
Merced	0.8831
Modoc	0.0561
Mono	0.0511
Monterey	1.1663
Napa	0.3856
Nevada	0.2129
Orange	5.3423
Placer	0.5034
Plumas	0.1134
Riverside	3.6179
Sacramento	4.1872
San Benito	0.1010
San Bernardino	4.5494
San Diego	7.8773
San Francisco	3.5335
San Joaquin	2.4690
San Luis Obispo	0.6652
San Mateo	2.5169
Santa Barbara	1.0745
Santa Clara	5.0488
Santa Cruz	0.7960
Shasta	0.5493
Sierra	0.0345
Siskiyou	0.2051
Solano	0.6694
Sonoma	1.1486
Stanislaus	1.4701
Sutter/Yuba	0.6294
Tehama	0.2384
Trinity	0.0826
Tulare	1.4704
Tuolumne	0.1666
Ventura	1.9311
Yolo	0.5443
Berkeley	0.2688
Tri-City	0.2347

(Amended by Stats. 1993, Ch. 100, Sec. 23. Effective July

13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17606.15. (a) For the first fiscal year in which funds are deposited into the Special Equity Subaccount in the Sales Tax Growth Account in the Local Revenue Fund, the Controller shall allocate funds on a monthly basis from the Special Equity Subaccount to the account of the local health and welfare trust fund designated by each recipient county in accordance with the following schedule:

County	Allocation Percentage
Orange	49.505
San Diego	39.604
Santa Clara	10.891

(b) For the fiscal year following the first fiscal year in which funds are deposited into the Special Equity Subaccount, the Controller shall first allocate any amount deposited pursuant to Section 17605.08 in accordance with the schedule described in subdivision (a).

(c) For each fiscal year following the first fiscal year in which funds are deposited into the Special Equity Subaccount in the Sales Tax Growth Account in the Local Revenue Fund, after fulfilling the obligations set forth in subdivision (b), the Controller shall allocate all funds remaining in that subaccount to the account of the local health and welfare trust fund designated by each recipient county in accordance with the following schedule:

County	Allocation Percentage
Orange	28.169
San Diego	56.338
Santa Clara	15.493

(d) Notwithstanding any other subdivision of this section, the Controller shall not allocate from the Special Equity Subaccount of the Sales Tax Growth Account in the Local Revenue Fund any amount that, in conjunction with matching funds allocated pursuant to Section 17606.20, comprises a cumulative total of more than the amounts in the following schedule:

County	Allocation
Orange	$13,000,000
San Diego	20,000,000
Santa Clara	5,500,000

(Repealed and added by Stats. 1993, Ch. 100, Sec. 25.

Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

17606.20. On or before the 27th day of each month, the Controller shall allocate money to each county, city, and city and county, as general purpose revenues, from revenues deposited in the Vehicle License Fee Growth Account in the Local Revenue Fund in amounts that are proportional to each county's, city's, or city and county's total allocation from the Sales Tax Growth Account, except amounts provided pursuant to Section 17605.

(Amended by Stats. 1993, Ch. 100, Sec. 26. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

Article 9. County Matching Fund Requirements

(Article 9 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17608.05. (a) As a condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's local health and welfare trust fund mental health account, the county or city shall deposit each month local matching funds in accordance with a schedule developed by the State Department of Mental Health based on county or city standard matching obligations for the 1990-91 fiscal year for mental health programs.

(b) For the 1993-94 and the 1994-95 fiscal years only, a county or city may limit its deposit of matching funds to the amount necessary to meet minimum federal maintenance of effort requirements, as calculated by the State Department of Mental Health, subject to the approval of the Department of Finance. However, the amount of the reduction permitted by the limitation provided for by this subdivision shall not exceed fifteen million dollars ($15,000,000) per fiscal year on a statewide basis.

(Amended by Stats. 1993, Ch. 64, Sec. 52. Effective June 30, 1993.)

17608.10. (a) As a condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's or city's local health and welfare trust fund account, a county or city shall deposit county or city general purpose revenues into the health account each month equal to one-twelfth of the amounts set forth in the following schedule:

Jurisdiction	Amount
Alameda	$ 20,545,579
Alpine	21,465
Amador	278,460

Butte	724,304
Calaveras	0
Colusa	237,754
Contra Costa	10,114,331
Del Norte	44,324
El Dorado	704,192
Fresno	10,404,113
Glenn	58,501
Humboldt	589,711
Imperial	772,088
Inyo	561,262
Kern	7,623,407
Kings	466,273
Lake	118,222
Lassen	119,938
Los Angeles	159,324,707
Madera	81,788
Marin	1,196,515
Mariposa	0
Mendocino	347,945
Merced	858,484
Modoc	70,462
Mono	409,928
Monterey	3,367,970
Napa	546,957
Nevada	96,375
Orange	15,727,317
Placer	368,490
Plumas	66,295
Riverside	7,365,244
Sacramento	7,128,508
San Benito	0
San Bernardino	4,316,679
San Diego	4,403,290
San Francisco	39,363,076
San Joaquin	2,469,934
San Luis Obispo	1,359,837
San Mateo	6,786,043
Santa Barbara	3,794,166
Santa Clara	13,203,375
Santa Cruz	2,053,729
Shasta	184,049
Sierra	7,330
Siskiyou	287,627
Solano	115,800
Sonoma	438,234
Stanislaus	3,510,803
Sutter	674,240

Tehama	446,992
Trinity	292,662
Tulare	1,547,481
Tuolumne	305,830
Ventura	4,185,070
Yolo	1,081,388
Yuba	187,701
Berkeley	1,953,018
Long Beach	0
Pasadena	0

(b) As an additional condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's or city's local health and welfare trust fund, a county or city shall deposit each month an amount of county or city general purpose revenues at least equal to the amount of funds transferred by the Controller each month to the county or city pursuant to Article 5 (commencing with Section 17604).

(c) As an additional condition of deposit of funds from the Sales Tax Account of the Local Revenue Fund into a county's or city's local health and welfare trust fund account, a county or city shall deposit each month into the mental health account of the local health and welfare trust fund account an amount of county or city general purpose revenues at least equal to the amount of funds transferred pursuant to subdivision (c) of Section 17604 to the county.

(Amended by Stats. 1992, Ch. 720, Sec. 4. Effective September 15, 1992.)

17608.15. As a condition of the deposit of Sales Tax Growth Account funds into the local health and welfare trust fund accounts, a county or city or city and county shall deposit, each month, local matching funds that are sufficient to permit the disbursement from the local health and welfare trust fund accounts amounts that are equivalent to the growth of revenue in the sales tax and vehicle license fees allocated pursuant to Section 11001.5 of the Revenue and Taxation Code to the trust fund accounts and the county general funds.

(Amended by Stats. 1993, Ch. 100, Sec. 27. Effective July 13, 1993. Note: Actions of Stats. 1993, Ch. 100, may become inoperative under conditions specified in Sec. 28.)

Article 10. Expenditure Limitations and Reports

(Article 10 added by Stats. 1991, Ch. 89, Sec. 201.5. Effective June 30, 1991.)

17609. Funds deposited into a county's health and welfare

trust fund accounts may be expended only for the purposes of providing those mental health, public health, indigent health care, social services, and juvenile justice programs transferred or otherwise financed pursuant to the realignment established under Chapters 89 and 91 of the Statutes of 1991.

(Amended by Stats. 1991, Ch. 611, Sec. 107. Effective October 7, 1991.)

17609.01. Except as provided in Section 17600.20, funds deposited in the health account may be expended only for public health and indigent health care services.

(Added by Stats. 1991, Ch. 611, Sec. 108. Effective October 7, 1991.)

17609.05. (a) Each county, city, or city and county shall file with the Controller quarterly and annual reports of trust fund deposits and disbursements within 60 days after the end of the quarter.

(b) The Controller shall verify deposits and notify appropriate state agencies upon request of deficits in deposits. The next scheduled allocations shall not be made until deposits are made accordingly. Reports shall be forwarded to the appropriate state department for expenditure verification.

(Amended by Stats. 1993, Ch. 728, Sec. 4. Effective October 4, 1993.)

17609.09. Whenever a distribution is made to counties, cities, and cities and counties, the Controller shall provide a remittance advice, identifying the amounts that are provided from each account or subaccount in the Local Revenue Fund and identifying the account in the local health and welfare trust fund into which the funds shall be deposited.

(Added by Stats. 1993, Ch. 728, Sec. 5. Effective October 4, 1993.)

17609.10. The Controller shall charge actual administration costs for the implementation and maintenance of this part and subsequent related legislation to the Local Revenue Fund prior to all allocations. These charges shall be reviewed and approved annually by the Department of Finance.

(Added by Stats. 1991, Ch. 611, Sec. 110. Effective October 7, 1991.)